

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMIE LEIGH JONES,
PLAINTIFF,

v.

HALLIBURTON COMPANY D/B/A
KBR KELLOGG BROWN & ROOT
(KBR); KELLOGG BROWN & ROOT
SERVICES, INC.;
DEFENDANTS.

.

.
.
. H-07-CV-2719
. HOUSTON, TEXAS
. JUNE 24, 2011
. 8:29 A.M.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFFS:

Lannie Todd Kelly
Heidi Olsen Vicknair
The Kelly Law Firm PC
One Riverway
Suite 1150
Richmond, Texas 77056

Ron Estefan
Attorney at Law
One Riverway
Suite 1150
Richmond, Texas 77056

Stephanie Marie Morris
The Law Office of Stephanie M. Morris, PLLC
27 S. Darlington Street
West Chester, Pennsylvania 19382

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

- - - - -

1 A P P E A R A N C E S: (Continued)

2 FOR DEFENDANT KBR:

3 Joanne Vorpahl
4 Susan Cates
5 Stephanie Holcombe
6 Daniel K. Hedges
7 Porter & Hedges
8 1000 Main Street
9 36th Floor
10 Houston, Texas 77002

11 FOR DEFENDANT CHARLES BORTZ:

12 Andrew T. McKinney, IV
13 Sharon Cullen
14 McKinney Cooper LLP
15 Three Riverway
16 Suite 500
17 Houston, Texas 77056

18 OFFICIAL COURT REPORTER:

19 Cheryll K. Barron, CSR, CM, FCRR
20 U.S. District Court
21 515 Rusk Street
22 Houston, Texas 77002

23 - - - - -

24

25

1	<u>INDEX</u>	
2		<u>PAGE</u>
3	<u>PLAINTIFFS WITNESSES</u>	
4	Randall Tackett	
5	Direct Examination by Mr. Kelly	16
6	Cross-Examination by Mr. McKinney	44
7	Cross-Examination by Ms. Cates	123
8	Redirect Examination by Mr. Kelly	131
9	Recross-Examination by Mr. McKinney	144
10	Further Redirect Examination by Mr. Kelly	148
11	Pete Arroyo, by Video	
12	Excerpts Presented by Plaintiffs	150
13	Excerpts Presented by Defendants	150
14	Sabrina Ann Lahiri	
15	Direct Examination by Mr. Kelly	155
16	Cross-Examination by Mr. Hedges	170
17	Cross-Examination by Ms. Cullen	186
18	Redirect Examination by Mr. Kelly	218
19	Tyler Schmidt, by Video	
20	Excerpts Presented by Plaintiffs	227
21	Excerpts Presented by Defendants	228

- - - - -

P R O C E E D I N G S

(Jury not present)

THE COURT: Good morning. Good morning and welcome.

All right. I understand we have some things to talk about.

MR. MCKINNEY: We do, your Honor. Regarding the expert that's coming up, we've been shown a demonstrative aid that we believe directly violates this Court's order on the Daubert challenge to the expert. KBR filed a Daubert challenge. I don't know if we joined in it or not. I don't think it was necessary whether we did join in it or not. And the gravamen of the Court's order is that --

THE COURT: I thought we had just -- I thought we had already taken this up.

MR. MCKINNEY: I thought you ruled on it and said that the witness is not competent to testify in that area. It embraces the --

THE COURT: No, I mean this particular exhibit. No?

MR. MCKINNEY: No.

MR. KELLY: Well, your Honor, we may have used that exhibit. I don't know if we did or not, but I do know this: We certainly talked about those criteria. And my understanding of the Court's ruling is the only thing that our expert is not permitted to talk about is the ultimate issue of fact here. He can certainly talk about the issues upon which he bases his

08:30 1 expert opinion.

2 THE COURT: Hold on just a second.

3 Okay. I guess the deal was you wanted to show
4 this to Jones or one of the other witnesses, and I said no.
08:30 5 Okay. And now it's going to be shown to whom?

6 MR. MCKINNEY: A toxicologist, your Honor, a PhD in
7 toxicology and pharmacology. And your order cabins his
8 testimony to the effects of drug and alcohol upon the body.
9 That's one item. The second item, drugs that are commonly used
08:31 10 to facilitate sexual assault.

11 The third item is the observable behavior of
12 individuals under the influence of such drugs and the use of
13 toxicology reports to determine whether an individual is the
14 victim of a drug-facilitated sexual assault. The last area, as
08:31 15 I read the Court's language, cabins or limits the toxicologist,
16 the witness, to looking at the actual toxicology report to
17 determine whether or not Ms. Jones was potentially the victim
18 of a drug-facilitated assault.

19 All the toxicology reports are negative as to any
08:31 20 drug. So, the witness would have nothing to offer in that
21 particular area, defaulting back to the only two areas the
22 Court identified in the order and which, of course, we have
23 predicated our trial strategy and our cross-examination
24 strategy on, are that Tackett can provide his expert opinion
08:32 25 regarding, first, the effects of drugs and alcohol upon the

08:32 1 body, and second, drugs that are commonly used to facilitate
2 sexual assault.

3 He's not a medical doctor. He cannot review
4 medical records and opine that another -- that a medical
08:32 5 doctor's findings are or are not consistent with non-consensual
6 sex. He's patently unqualified to offer an opinion on that;
7 and I suspect that opinion will be solicited, based on the
8 checklist. And that's -- our motion is to strictly limit this
9 expert to the Court's order, because experts, unlike lay
08:32 10 people, particularly a retained expert, can and often are
11 advocates on the witness stand for one side or the other and
12 should be narrowly corralled by the gatekeeper.

13 THE COURT: Okay. I understand your point.

14 Mr. Kelly.

08:33 15 MR. KELLY: Your Honor, it's our understanding of the
16 Court's ruling that similarly to Dr. Scarano, Dr. Tackett was
17 limited to being able -- not being able to testify as to the
18 ultimate issue of the fact here, which is essentially: Did
19 Ms. Jones, in fact, give consent?

08:33 20 But as to the criteria that have been provided,
21 these are the criteria that are routinely used by toxicologists
22 and pharmacologists as well as the law enforcement around the
23 country, and we will hear that from Dr. Tackett, to determine
24 whether or not a date rape drug -- or a date rape -- a date
08:33 25 facilitation drug has been used. Those are the criteria that

08:33 1 are used. Those are the criteria that are looked at and
2 evaluated, and that's all we want to do is be able to testify
3 that those are the ten criteria and evaluate them and apply
4 them or not apply them, as the case may be, to the facts of
08:34 5 this case.

6 That is immanently within this expert's domain.
7 He is not going to testify that, in fact, Jamie Jones did not
8 give consent, which, you know, appears to be the issue. He's
9 not going to opine as to any witness' credibility or lack
08:34 10 thereof. He may very well, as to the parties who have given
11 statements, he may talk about those and accept those as facts;
12 but only to the parties which I think the Court has limited the
13 other hearsay instructions to and the other hearsay -- the uses
14 of hearsay.

08:34 15 So, even though he's not using the hearsay
16 outside, although he could and normally would in his
17 practice --

18 THE COURT: All right.

19 MR. KELLY: -- he's not doing that here. We've
08:34 20 limited him. We've strictly --

21 THE COURT: Okay. I got the Tackett motion in limine
22 in front of me. What the Court said was Tackett's statement
23 that Jones suffered a sexual assault goes beyond providing
24 relevant information that would be useful to the trier of fact
08:35 25 and actually opines on credibility and reliability of Jones.

08:35 1 As such, we exclude that portion of Tackett's expert opinion
2 which concludes Jones was the victim of sexual assault.

3 Isn't that what this does?

4 MR. MCKINNEY: It's exactly what it does, your Honor.

08:35 5 MR. KELLY: No.

6 MR. MCKINNEY: And the next page of your opinion lists
7 the areas where Dr. Tackett is allowed to testify. And if I
8 may, just to reiterate, Daubert was a long time in coming, long
9 overdue; and in no criminal or civil matter is a scientist
08:35 10 allowed to come in, or any other expert, and say: Here is a
11 checklist which has been fashioned by an organization; and if
12 you follow this checklist and you check "yes" on X number of
13 criteria, then having done so, you have evidence of the
14 ultimate issue.

08:36 15 THE COURT: I understand your point. Let me hear from
16 Mr. --

17 MR. KELLY: Your Honor, everything we do in this
18 courtroom is evidence of the ultimate issue or we wouldn't be
19 here. He is not going to opine on the ultimate issue and that
08:36 20 was our understanding of the Court's ruling and I think it's
21 very clearly in the black-and-white order of the Court's rule.

22 All he's doing is offering why that -- why
23 specific evidence is important when evaluating whether or not a
24 drug -- or a rape facilitation drug was used. That is all that
08:36 25 that chart does. It does not say, in fact, Ms. Jones was

08:36 1 raped. It says: These are the criteria you should look for.
2 These are the things that are important in evaluating whether
3 or not a drug facilitation -- or excuse me -- a rape
4 facilitation drug was used.

08:36 5 That's all he's saying: These are the important
6 things to look for, this is how they apply to this case.

7 But he is not going to say, in fact, Ms. Jones
8 was raped. He's not going to offer that opinion.

9 MR. McKINNEY: He is a toxicologist --

08:37 10 THE COURT: Just a second.

11 Another concern I have, Mr. Kelly, is that a lot
12 of this does not -- like Number 6 on this checklist, sexual
13 vaginal soreness and signs of sexual activity without memory,
14 he's not qualified to testify on vaginal entry.

08:37 15 MR. KELLY: He's not going to testify on the injuries
16 themselves, your Honor. He's going to testify that based upon
17 his review of the facts of this case, which is what he does as
18 a toxicologist/pharmacologist evaluating these cases, his
19 review of the case and the facts of this case make it clear
08:37 20 that those were there.

21 And all he's doing is relying upon the statements
22 made by Mr. Bortz, Ms. Jones, and those in the medical records
23 themselves, the findings in the medical records. He's not
24 evaluating the findings in the medical records of other
08:37 25 physicians other than to say: This is what they found.

08:38 1 MS. CATES: Your Honor, can I add one thing?

2 THE COURT: Sure.

3 MS. CATES: Those factors come from a law enforcement
4 investigation manual. It is about how to investigate
08:38 5 allegations, not about determining whether, in fact, a
6 drug-facilitated rape occurred. So, it's very misleading to
7 put those in there as something else. And eight out of ten of
8 those are solely relied on what the victim says because it's
9 about investigation.

08:38 10 THE COURT: I'm sorry. I'm not going to be able to
11 allow this. I'm sorry.

12 MR. MCKINNEY: Judge, can we -- because we've had
13 miscommunications and misunderstandings about what the Court's
14 rulings are and are not, which necessitate us approaching the
08:38 15 bench in the presence of the jury, can we clearly and
16 definitively limit Dr. Tackett's observations, opinions, and
17 bases, therefore, to the effects of drugs on the human body and
18 his opinion on whether or not Ms. Jones was, in fact, drugged?
19 That's -- would seem to me to be the only thing that he can
08:39 20 testify to as --

21 THE COURT: Well, I cover that some more in the
22 relevant opinion: However, Tackett can provide his expert
23 opinion regarding the effects of drugs and alcohol upon the
24 body, drugs that are commonly used to facilitate sexual
08:39 25 assault, the observable behavior of individuals under the

08:39 1 influence of such drugs, and the use of toxicology reports to
2 determine whether an individual is a victim of a
3 drug-facilitated sexual assault.

4 That's what I had in mind.

08:39 5 MR. McKINNEY: Yes, Judge. It's the last -- and I
6 think that's what I asked the Court to reiterate so that we
7 don't have any more miscommunications, but it's the last leg of
8 it that I'm afraid might be misunderstood --

9 THE COURT: Hold on just a second.

08:39 10 *(Sotto voce discussion at bench with court staff)*

11 THE COURT: Okay. Go ahead, please, Mr. McKinney.

12 MR. McKINNEY: The last leg that I'm concerned might
13 be misunderstood, which is -- see if I have it directly in
14 front of me -- the use of toxicology reports to determine
08:40 15 whether an individual is the victim of drug-facilitated sexual
16 assault.

17 Now, I don't mean to read the Court's mind, but
18 my interpretation of what the Court was ruling here is that
19 this doctor would be competent to examine a toxicology report
08:40 20 and opine whether it shows the presence or absence of a date
21 rape type drug.

22 THE COURT: Rohypnol, yeah.

23 MR. McKINNEY: But not to opine that -- on any matter
24 touching upon the possibility of an actual sexual assault drug,
08:41 25 facilitated or otherwise.

08:41 1 THE COURT: I think that's right. He can't say that
2 because of her vaginal injury, because of whatever was found
3 near the vagina or near the anus that, therefore, there was a
4 sexual assault, no.

08:41 5 MS. MORRIS: Your Honor, if I could address the Court?

6 Mr. -- or Dr. Tackett also lectures and trains
7 police officers and sexual assault advocates on how to detect
8 if someone is suffering from a drug-facilitated assault because
9 it's so complex. And as we heard Ms. Jones talk about, she
08:41 10 woke up in the morning groggy, kind of in a fog, and slowly
11 starts to realize something happened to her. And he lectures
12 these professionals on how to detect those symptoms, and he's
13 done it for years.

14 So, he's not only just a toxicologist, but he's
08:42 15 in a specific area concentrated on drug-facilitated rape.

16 THE COURT: Well, he can talk all about -- he can say
17 whatever he wants to about Rohypnol. But give me something he
18 would testify on in this case. What would he say besides --

19 MS. MORRIS: He would -- the journal that was just
08:42 20 talked about, he will reference the journal and the ten factors
21 that he tells these professionals to look for when detecting if
22 someone has suffered from a drug-facilitated rape.

23 THE COURT: And was he qualified as a law
24 enforcement expert?

08:42 25 MS. CATES: No.

08:42 1 MR. KELLY: He's qualified as a
2 pharmacologist/toxicologist, your Honor; and based upon his
3 teaching and based upon his experience, I think you'll find
4 that he's also qualified by teaching law enforcement officers.

08:42 5 These criteria -- these criteria were
6 specifically testified about in his deposition, of course; but
7 they also -- as he will testify, these are the criteria that
8 need to be weighed. The drug test itself, the toxicology test
9 itself, and he will testify, is no more important than any one
08:43 10 of the other criteria. And to limit him to saying we can only
11 talk about Criteria Number 2, even though the nine other
12 criteria are just as important -- and I realize we're not doing
13 that. There's a couple of others in here.

14 But to use an example, if we were to say: He can
08:43 15 only testify to -- even if you pick three of them, he can
16 testify to Criteria Number 2, 6, and 8 but not the rest --

17 THE COURT: That does sound more reasonable. If he
18 wants to say: After someone has taken Rohypnol, after -- next
19 morning effects include amnesia or --

08:43 20 MR. McKINNEY: That's all fine.

21 THE COURT: He can say that.

22 MR. KELLY: That's all he's doing, your Honor. So, I
23 guess maybe do it this way then, your Honor. Without giving
24 the answer on the right-hand side, can we at least present the
08:43 25 chart so that the jury has something to follow? We can answer

08:43 1 it in closing.

2 MR. MCKINNEY: Judge, that's --

3 MR. KELLY: I mean, these are the criteria, your
4 Honor, that are used to do this.

08:43 5 THE COURT: The only way that would work is if you
6 said he has no confidence on Factors 2 and 6 and 7, 8. I just
7 don't think that --

8 MR. KELLY: Well, I don't --

08:44 9 MR. MCKINNEY: It's not even expert testimony. Simply
10 because someone teaches a class or a hundred classes does not
11 pass the Daubert challenge of reliability of method, peer
12 review, uses outside of the litigation, or the crime -- or the
13 prosecution of crimes, et cetera, et cetera, et cetera. Not
14 learned treatise --

08:44 15 THE COURT: I'm sorry. I'm not able to allow this.
16 I'm sorry. I'll stick to my report.

17 What's next?

18 MS. CULLEN: Your Honor -- and I don't know that we
19 have to take it up now; but he also has a demonstrative he
08:44 20 wants to use with Dr. Lahiri, the plastic surgeon.

21 THE COURT: Let's wait on that one.

22 Anything else?

23 MR. KELLY: I will need a couple of minutes, your
24 Honor, to speak with my expert so that we don't violate the
08:44 25 Court's order.

08:44 1 THE COURT: All right. That's fine. Go take care of
2 that.

3 MS. HOLCOMBE: Oh, we have one other issue; but if the
4 jury's ready, we can take that up later, as well. It's a small
08:44 5 issue.

6 THE COURT: Let's wait. Unless we can do it in two
7 minutes. Well, Mr. Kelly has left. I'll be back in just a
8 second.

9 *(Recess taken from 8:45 a.m. to 8:54 a.m.)*

08:54 10 *(Jury present)*

11 THE COURT: Ladies and gentlemen, I apologize for our
12 late start.

13 Plaintiff wish to call a witness?

14 MR. KELLY: Yes, your Honor, Dr. Randall Tackett.

08:54 15 THE COURT: Dr. Tackett.

16 Dr. Tackett, good morning, sir. We're going to
17 have you up here nearest in this seat. Before you take your
18 seat, Mrs. Loewe will administer the oath.

19 MS. LOEWE: Do you solemnly swear the testimony you're
08:54 20 about to give in the matter now before the Court will be the
21 truth, the whole truth, and nothing but the truth?

22 THE WITNESS: I do.

23 THE COURT: Thank you. Please be seated. Try to make
24 yourself as comfortable as you can, and try to speak directly
08:55 25 into the mike. That's been a little bit of a problem.

08:55

1 You may inquire.

2 MR. KELLY: Thank you, your Honor. May it please the
3 Court?

4 **RANDALL TACKETT, DULY SWORN, TESTIFIED:**

5 **DIRECT EXAMINATION**

6 Q. Good morning, Dr. Tackett.

7 A. Good morning.

8 Q. Could you introduce yourself to the ladies and gentlemen of
9 the jury, please?

08:55

10 A. Yes. My name is Randall Tackett.

11 Q. And what do you do for a living, Dr. Tackett?

12 A. I'm a professor at the University of Georgia College of
13 Pharmacy.

14 Q. And what do you teach?

08:55

15 A. I teach a number of courses. I teach physiology,
16 pathophysiology, teach an ethics course. I teach a forensics
17 pharmacy course. I teach an abused drugs course, and I also do
18 a number of continuing education programs.

19 Q. Tell me about your education, Doctor. Where were you
20 educated in college, and what did you study?

08:55

21 A. I got my Bachelor's degree at Jacksonville University.

22 That was a Bachelor's in biology. I received that in 1975.

23 And then I went to Auburn University and received
24 a Master's in pharmacology and toxicology. I received that in
25 1977. Then I went to the University of Georgia College of

08:56

08:56 1 Pharmacy and received a doctoral, my PhD, in 1979. And then
2 left there, went to the Medical University of South Carolina in
3 the Department of Pharmacology and Toxicology and did a
4 two-year plus doctoral fellowship.

08:56 5 Q. And what positions have you held as a
6 toxicologist/pharmacologist?

7 A. Well, after doing my postdoctoral studies, basically I
8 returned back to the University of Georgia as an assistant
9 professor. And I served as the department head for

08:56 10 pharmacology and toxicology. I was also -- went through
11 associate professor, promoted to full professor.

12 I'm also in the -- part of the regulatory affairs
13 program. I also teach in the Alliant University program as --
14 which is in California. And I do lectures also for Fairleigh
08:57 15 Dickinson, which is in New Jersey, dealing with psychotropic
16 drugs.

17 In addition to those activities, I'm the graduate
18 coordinator for our department; and I'm also the director of a
19 clinical trial program.

08:57 20 Q. Okay. What is toxicology?

21 A. Toxicology is the basic science of looking at the adverse
22 effects of drugs. Today toxicology has moved to be a little
23 bit more environmental, but it still looks primarily how do
24 drugs produce their adverse effect, their toxic effects, and
08:57 25 what's the basis for those effects.

08:57 1 Q. What is pharmacology?

2 A. Pharmacology is -- when I came through, pharmacology was
3 the broader discipline which basically looks at how drugs act
4 on the human body and that includes how they produce their
08:57 5 therapeutic actions; but it also includes how those drugs may
6 produce their adverse effects. So, pharmacology actually
7 encompasses toxicology. And toxicology, when I came through,
8 was actually looked as a subdiscipline of pharmacology.

9 Q. In your training, Doctor, had you become familiar with
08:58 10 drugs used to facilitate rape?

11 A. Yes. I've done that in -- one of my other responsibilities
12 is that I am chairman of the Student Wellness Committee.
13 Previously we called that the Student Impairment Committee.
14 And one of my responsibilities is to deal with students that
08:58 15 may have problems with either drug or alcohol, and that can
16 include some of these drugs which may be used as date rape
17 drugs.

18 Additionally, as part of my responsibility of
19 teaching the abused drugs class, that is a section that I
08:58 20 teach. I also do continuing education programs. There's
21 usually at least one program a year that's a workshop that
22 deals with drugs of abuse, which includes those.

23 And I've also been called with regard to --
24 sometimes to do orientation at colleges and high schools and
08:59 25 different programs to make freshmen coming in about the

08:59 1 possibility of alcohol and other drugs that may be used for
2 date rape. [sic]

3 Q. The other drugs that may be used for date rape, Doctor,
4 what are these drugs by name?

08:59 5 A. Well, when you look at what is called "date rape drugs,"
6 the classic one that came out was Rohypnol. And Rohypnol is
7 actually what we refer to as a benzodiazepine, which it's
8 related to things like Xanax, Valium; it's just much more
9 potent. It's actually a prescription drug available in other
08:59 10 countries other than the United States.

11 But in addition to that, what it's classically
12 been included has been a drug called GHB, that's
13 gamma-hydroxybutyrate. There are some analogues of GHB which
14 are chemical -- chemical drugs that are very similar. We call
09:00 15 those -- there's GBL and BD are the two analogues that have
16 been used. Ecstasy has been included, alcohol. Barbiturates
17 in the past were used as a date rape drug.

18 And we also see some derivatives of scopolamine
19 that may be used. And so, there's a number of drugs. And also
09:00 20 we will see that many times those drugs may be combined. So,
21 you may add different drugs.

22 And then classically we've also seen people use
23 very heavy sedatives, benzodiazepines or some of the sleep
24 drugs, like Ambien in particular.

09:00 25 Q. Doctor, the -- I want to ask you first about Rohypnol.

09:00 1 Does it have a legitimate medical purpose?

2 A. Rohypnol is actually a pharmaceutical that's available in
3 other countries, and it's used as a sleeping pill. The United
4 States, it is not approved. The FDA has not approved the --
09:01 5 Rohypnol because of its side effects, but it does have a
6 legitimate medical use in other countries. But it is not
7 approved by the FDA, so it is not -- you're not able to use it
8 legally in the United States.

9 Q. And GHB, does it have a legitimate medical purpose?

09:01 10 A. GHB, there is one very limited use of GHB. It is for
11 treatment of narcolepsy. That's when people just sort of drift
12 off. And that is a very, very structured way of getting GHB.
13 There's only one pharmacy in the United States that sells it.
14 Everything has to go through that pharmacy in St. Louis.

09:01 15 Prior to that, GHB was actually available over
16 the counter. You could actually buy it in some of these
17 nutrition stores. Body builders used it because it released
18 growth hormone and it would -- in low dosages what it would do
19 is it would stimulate muscle growth and decrease fat
09:02 20 deposition.

21 Q. When a person is under the influence of one of these date
22 rape drugs, Doctor, can they appear to the outside world as
23 normal?

24 A. Yes. What you have to look at within a drug is that the
09:02 25 effects we see are going to be based upon the dose that the

09:02 1 individual gets; it's going to be based upon other drugs that
2 they may get. And most people have the opinion that with these
3 date rape drugs, it basically knocks them out and then someone
4 has sex with them and then they wake up and that's it.

09:02 5 But as that drug is -- what we normally see being
6 reported is that when people are given these date rape drugs, a
7 lot of times they can be put into alcohol, which is a very,
8 very common venue. They can be slipped into a drink. It's one
9 of the things that we tell our freshmen is: Don't take a
09:03 10 drink -- don't leave your drink sitting around and open because
11 people can add these to your drink.

12 They can start becoming sedated, and that can
13 come on pretty quickly. There can be a lot of different
14 effects that occur, depending on the dose and the other drugs.
09:03 15 In some cases we see a sedation that can occur. Some cases we
16 may actually see that those individuals become also -- almost
17 more aggressive, even maybe even more sexually active. This
18 can be explained by the drug having different effects on
19 excitatory or inhibitory pathways.

09:03 20 Q. Actually, you anticipated my next question. How can it
21 affect libido and inhibition, Doctor?

22 A. Well, here's what I tell my -- when I'm having to explain
23 to parents, this is the way I try to -- how can you take a
24 sedative and -- which it puts somebody to sleep -- and those
09:03 25 individual actually show excitation or stimulation.

09:03 1 And what can happen is this. Think of your brain
2 very simply as having excitatory and inhibitory pathways. If
3 I'm giving a sedative and it sedates my inhibitory pathways,
4 it's like taking the brakes off so I can get excitation. And
09:04 5 that's not unique to these drugs. Because if any of you have
6 kids, you probably have heard of a common drug called Benadryl
7 that some kids it will make them sleepy; some kids you give it
8 to them and they're bouncing off the walls.

9 And so, what's happening with these drugs is that
09:04 10 they're acting on different pathways in the brain. And when we
11 see in some individuals that you get the excitation, other
12 individuals you may get sedation. Also that's dependent on the
13 dose that they get. For example, a person that may be
14 extremely excited can -- high enough dose can actually become
09:04 15 comatose.

16 So, we can't predict which patient or which
17 person is going to react to that drug in a particular way.
18 Because there's a lot of variables there.

19 Q. Doctor, you told us a lot about your education, your
09:05 20 training, and what you do for a living. Do you also train
21 investigators?

22 A. Well, we say "train investigators." They are very common
23 in a number of my workshops that I do. Every year in October,
24 I think for the probably the past ten or 15 years, I've done a
09:05 25 workshop which is called an abused drugs workshop. I have also

09:05 1 had numerous CE programs where I've dealt with social workers.
2 I've given programs to judges in probate court, traffic court
3 judges, that included law enforcement. I've done a program --
4 couple of programs for the DEA that go over these drugs.

09:05 5 So, that goes over the explanation of how these
6 drugs work, what you should look for, even the toxicology
7 reports; i.e., the drug levels and what they may mean and how
8 they're interpreted.

9 Q. When you say "CE courses," that's continuing education?

09:06 10 A. Yes, continuing education.

11 Q. Have you testified about the effects of rape facilitation
12 drugs in other cases?

13 A. Yes, sir.

14 Q. And do you testify predominantly for plaintiffs,
09:06 15 predominantly for defendants? What are you -- what's your
16 normal testifying, Doctor?

17 A. When I get called, actually I -- on the cases that I get
18 called in is that if somebody called the College of Pharmacy,
19 many times there's about five of us that these will be referred
09:06 20 to. And -- but over the years -- and I've been doing this
21 since about the mid to late Nineties. The majority of my calls
22 would be for basically plaintiffs and -- probably about
23 85 percent. What I've seen over the last three to five years
24 is that I've had more defense cases that have come my way.

09:06 25 Several of the defense cases will never go to

09:06 1 trial. They may settle, and many of the defense lawyers that
2 have hired me have been ones that were actually on the other
3 side of cases that I've had.

4 Q. Quite a compliment to have the opponent hire you as their
09:07 5 expert in a later case, isn't it?

6 A. I look at -- you know, I don't look at it that way; but, I
7 mean, when somebody calls me, I basically say: This is what I
8 can opine to.

9 And sometimes it's not beneficial for them, and I
09:07 10 don't hear back from them. But basically if I can help them,
11 then I usually try to do that.

12 THE COURT: Could you kind of walk him through what he
13 tells perspective clients about what he can opine on?

14 MR. KELLY: I'll be happy to, your Honor.

09:07 15 BY MR. KELLY:

16 Q. When -- well, maybe the best way to do that is: You became
17 involved in this case at my request?

18 A. Correct.

19 Q. And at some point in time, you and I had a discussion about
09:07 20 what you were qualified to talk about and what you weren't
21 qualified to talk about, right?

22 A. Right.

23 Q. And what did you tell me, Doctor, that you were qualified
24 to render opinions about to the ladies and gentlemen of the
09:07 25 jury?

09:07 1 A. Basically my training as a pharmacologist and toxicologist,
2 I've got over 30 years of that. And I've testified in court
3 about the effects of drugs. And that can include date rape
4 drugs, it can include drugs of abuse, it can even include about
09:08 5 pharmaceuticals that there may be adverse effects with.

6 The other thing is the interpretation of lab
7 tests, which includes what do they mean, what's their
8 limitations.

9 So, I've testified with regard to primarily the
09:08 10 pharmacology and toxicology of drugs. That may include how
11 these drugs are distributed in the body, how they -- changing
12 the route of administration may affect the different effect in
13 the body; and it also includes, for example, how do we -- you
14 know, quantitatively what does it mean when we get a drug test,
09:08 15 what does that drug test tell us, what are the limitations,
16 even testified with regard to how people may beat drug tests.

17 Q. Have you -- are you qualified to opine on the symptoms that
18 are reported in a particular victim and whether or not those
19 are related to or typically related to the administration of a
09:09 20 drug -- a rape facilitation drug?

21 A. That's -- yes, that's basically taking pharmacology, which
22 is what does the drug do in the body; and what it does in the
23 body relates to this particular symptom. So, many times it is
24 looking at here's a person that has these particular symptoms
09:09 25 and the question is: Is this consistent with either an action

09:09 1 of a drug, an interaction of multiple drugs, or an interaction
2 of the drug in a particular disease state that may occur.

3 MR. KELLY: Your Honor, may I approach?

4 THE COURT: Him or me?

09:09 5 MR. KELLY: You, your Honor.

6 *(At sidebar with all counsel)*

7 MR. KELLY: In light of this testimony, your Honor --
8 I understand the Court's rulings with respect to opining as to
9 whether or not certain ingredients were actually present in
09:10 10 this case; but I would like to reurge -- to at least be allowed
11 to have him list the criteria that he looks at to make the
12 findings that he's just told us, this jury, that he's qualified
13 to make.

14 MR. McKINNEY: One, you're talking too loud. And,
09:10 15 two, you know, he said he's only qualified to opine on the
16 effect of drugs on the body and interpret lab reports, which is
17 all he's -- all the Court has ruled he's allowed to.

18 THE COURT: And I don't think you really ever offered
19 him through the report as qualified in this area. So, I don't
09:10 20 think that he's been deposed in this area, I don't think.

21 MR. KELLY: He was, your Honor. He was clearly
22 deposed on this area.

23 MR. McKINNEY: With all due respect, his report lists
24 ten criteria; but they are not the criteria that are on your
09:10 25 demonstrative exhibit. They're distinctly different from those

09:10 1 criteria. And he was not deposed on those criteria. And
2 besides that, he's not qualified to testify on --

3 THE COURT: No. My ruling doesn't change. It's
4 preserved for the record.

09:11 5 *(Open court)*

6 BY MR. KELLY:

7 Q. Dr. Tackett, at my request you reviewed documents in this
8 case?

9 A. I did.

09:11 10 Q. Do you recall what documents that you reviewed?

11 A. There were a number of documents that included the
12 investigation summary of this case. There was some medical
13 records of Ms. Jones. There were a number of sealed documents
14 that I received with a diskette, some depositions, some
09:11 15 toxicology reports associated with this. So, that's sort of a
16 general summary.

17 Q. Were you paid for your time in reviewing those documents,
18 Doctor?

19 A. Yes, sir.

09:11 20 Q. Have you been paid for your time to travel and appear in
21 this courtroom?

22 A. Yes, sir.

23 Q. Okay. And do you know, as you sit there today, what you've
24 been paid?

09:11 25 A. I think it's somewhere between three and four thousand

09:11 1 dollars.

2 Q. And you've been paid that by my law firm on behalf of
3 Ms. Jones?

4 A. Yes.

09:12 5 Q. The documents that you reviewed, are those typically the
6 documents that you would review in formulating your opinions
7 with respect to toxicology and pharmacology as it relates to a
8 rape-facilitation drug?

9 A. Yes, sir.

09:12 10 Q. You said that you reviewed some medical records that
11 include toxicology results?

12 A. Correct.

13 MR. KELLY: I don't know the exhibit number; but I
14 think, Mr. McKinney, that you offered this yesterday. It's
09:12 15 Jones 000264.

16 MR. MCKINNEY: I have the number. It is Bortz 73, if
17 that's the Landstuhl report.

18 MR. KELLY: It is.

19 Your Honor, may I approach?

09:13 20 THE COURT: You may.

21 BY MR. KELLY:

22 Q. Actually, before I do that, Doctor, you're aware that there
23 was a urine drug test evaluated in this case?

24 A. Yes, sir.

09:13 25 Q. And you've reviewed that urine drug test?

09:13 1 A. Yes, sir.

2 MR. KELLY: Okay. Bortz 264, is that what you said?

3 MR. MCKINNEY: 73.

4 MR. KELLY: Bortz 73.

09:13 5 If I may approach, your Honor?

6 THE COURT: You may approach.

7 BY MR. KELLY:

8 Q. Oh, you have a copy?

9 A. I have a copy.

09:13 10 Q. This is Bortz 73; and, Doctor, what is that?

11 A. What this is, is basically -- well, it's actually a fax;
12 but it contains a drug screen with regard for -- it's for
13 Ms. Jamie Jones. And drug screens which are in -- in
14 drug-facilitated sexual assault, we like to get drug screens
09:14 15 because that can tell us if the drug has been given. There's
16 many cases that you may not get one because there's been such a
17 delay between it's been reported.

18 And so, this is a drug screen that -- for the
19 most part, it's -- the first part of it is pretty typical of a
09:14 20 drug screen, which screens for some common drugs of abuse. But
21 on the drug-facilitated sexual assault cases, generally you
22 will request sort of a second tier, which includes some of the
23 drugs that may be used for drug-facilitated assaults. For
24 example, Rohypnol, that is not usually picked up on a regular
09:14 25 drug screen. It has to be requested.

09:14 1 Q. Was Rohypnol tested for on this particular drug screen?

2 A. Rohypnol was tested. It's actually the last test, which
3 is -- flunitrazepam is the science name for this. And it was
4 tested, yes.

09:15 5 Q. Was GHB tested for?

6 A. GHB was not tested, nor was alcohol.

7 Q. Doctor, do you know the date that Ms. Jones claimed that
8 she was raped by Charles Bortz?

9 A. The date was June -- excuse me. It was July 28th.

09:15 10 Q. That's the day she was --

11 A. The evening of the 27th or 28th is when it occurred.

12 Q. And when does this report say that the urine was collected
13 from Ms. Jones?

14 A. This says the urine was collected -- if you see the
09:15 15 highlighted portion there, it was July 27th at 9:00 o'clock in
16 the morning.

17 Q. Would it do any good to determine whether or not someone
18 had been given a drug if you took their urine before they
19 claimed to have been given the drug?

09:15 20 A. No, I mean, this would be a baseline screen. This would be
21 more typical of a screen that would occur, for example, during
22 employment to see if it's there. The only thing that's
23 different is it's not routinely -- I'm not aware of any initial
24 baseline screen that would look for Rohypnol as part of it
09:16 25 since it has to be usually requested.

09:16 1 So, this July 27 drug screen that was done that
2 was collected at 9:00 o'clock in the morning, basically does
3 not say that she received the drug, because it was tested
4 before.

09:16 5 Q. Well, now, I see that the time -- that the date is wrong.
6 It's the 27th of July; but at 9:00 o'clock in the morning, in
7 your review of this case, do you know where Ms. Jones was at
8 9:00 o'clock in the morning on the 28th, even if that date is
9 just a typo?

09:16 10 A. If we looked at July 28th, I think she was just getting up
11 and leaving the barracks to go to the hospital.

12 Q. At any rate, she wasn't at the hospital yet?

13 A. Not to my knowledge, no.

14 Q. And, Doctor, what if this is just a typo, does it make any
09:17 15 difference to you?

16 A. Yes. I mean, here's what you are dealing with. When
17 you're looking at drug screens -- first of all, when drug
18 screens are done, there's a -- most places have a pretty
19 identified protocol of how it needs to be done so it's
09:17 20 consistent. I mean, you're making decisions about somebody's
21 employment or whatever; and so, it needs to be done and needs
22 to be consistent.

23 So, if you have a wrong date here, the question
24 asked is that, how accurate is this drug screen.

09:17 25 I mean, first of all, it was collected, according

09:17 1 to this document, the morning before the incident happened.
2 So, if that's wrong and you got two errors there, the next
3 question -- you actually got three. I think the name is
4 misspelled. But just with the date issue, the question becomes
09:17 5 is: How accurate are the other results?

6 So, if one error was made here, there's a
7 question of: Is this someone else's urine? Is this -- is
8 there an error in recording?

9 But this would be what we call a fatal flaw in a
09:18 10 drug screen.

11 Q. When you say "a fatal flaw in a drug screen," does this
12 make this report worth anything?

13 A. It's a report that says -- if you go for it at face value
14 would say -- let's say that there is -- if there's an error in
09:18 15 that, it would be. Because it's basically analyzing for a drug
16 in a urine that supposedly was never exposed to that drug.

17 So, if you go that the medical records are
18 correct, then what you have to say is that she was screened the
19 morning of the 27th at 9:00 o'clock and she showed no drugs
09:18 20 there. And, so, can you infer that she was given drugs based
21 upon this drug screen? Absolutely not. Basically said she had
22 a clean urine the morning of.

23 Q. Can you think of any reason why somebody might supply urine
24 when they knew it to be clean?

09:18 25 A. Well, I mean, from a standpoint of if this -- the question

09:19 1 becomes, is this the drug screen that was done and then used to
2 say we screened for Rohypnol, the -- I mean, the only other
3 reason would be to get a clean urine.

4 Q. Have you looked at other results of drug screening in this
09:19 5 case?

6 A. As far as the -- I looked at the FBI, which was on another
7 drug screen. They basically relied on this. And then there is
8 the documentation, I think, by Dr. Schulz at the -- when she
9 was at the clinic.

09:19 10 Q. Does that also rely on this one?

11 A. That's what it appears to be, because it shows all
12 negative; and that was done at 11:10, which would be consistent
13 with a drug screen being done the day before to get the results
14 back.

09:19 15 Q. So, no matter where we look for the urine drug testing,
16 we're going to have the same fatal flaw. Is that what you are
17 telling us?

18 A. If you're relying on this -- when I say "fatal flaw," if
19 we're trying to say Ms. Jones had not had Rohypnol or any of
09:20 20 these drugs by the morning of the 27th, then that's an accurate
21 report. If we're saying that this is indicative that she was
22 given the drug the evening of the 27th, morning of the 28th,
23 you can't make that inference from this -- from this results.

24 Q. Have you looked at results of toxicology results on blood,
09:20 25 Doctor?

09:20

1 A. There was no blood results done.

2 Q. At all or on this one?

3 A. There was none done on this one here.

4 Q. On that one. Was there blood -- was there blood drawn at
5 all?

6 A. I recall the blood was drawn, but there was no GHB or
7 ethanol or Rohypnol done on those.

8 Q. And why would that be that there was no GHB or ethanol
9 tested?

09:20

10 A. Well, the statement in the FBI report -- I don't understand
11 really why it wasn't tested because this was drawn pretty soon
12 after the rape occurred; but the point would be is that --
13 that's given was that it was too long since the incident is
14 when the blood was done.

09:21

15 Q. Let me ask you about that, Doctor. The -- I think it's
16 called the half-life of these drugs. What is the half-life of
17 Rohypnol?

18 A. Rohypnol is a fairly short-acting drug. I think the
19 half-life is probably three to four hours. And what half-life
20 is, is how long does it take for half the drug to disappear
21 from your body. Where that has an implication for, is that
22 the -- how long the drug would stay in the body would be
23 relatively short.

09:21

24 In general, for Rohypnol, you're usually looking
25 at the drug staying in the blood the matter of anywhere from 12

09:21

09:21 1 to 72 hours. After 72 hours, we're unlikely to pick that up.

2 Now, in the urine, it may stay around a little
3 bit longer because the urine concentrates and it's filtering
4 the blood; but that depends also on -- for example, if the
09:21 5 person gets up and goes to the bathroom, then what you've done
6 is emptied the bladder and emptied the drug.

7 So, if a urine was collected immediately upon
8 arising, that would be the most concentrate. But if she's --
9 if the person has urinated a couple of times, that could
09:22 10 conceivably drop the level in the urine even lower.

11 Q. So, if the person had gotten up, gone to the bathroom, and
12 then gone to the clinic, that would drop the concentration
13 down?

14 A. Yes. In fact, that's a very common way that people try to
09:22 15 beat drug screens is they try to go to the bathroom as often as
16 possible so that they can void the urine out.

17 Q. Now, Doctor, we asked about the half-life of Rohypnol.
18 What about the half-life of GHB?

19 A. GHB is a much shorter half-life. You're looking at
09:22 20 probably two to three hours, and it's less likely to stay
21 around. Probably you're looking 8 to 12 hours is what you are
22 going to see with GHB being present.

23 Q. So, from the time you're given GHB, it can be completely
24 out of your system in as little as eight hours?

09:22 25 A. Yes.

09:23 1 Q. And when a person is given one of these drugs -- well, let
2 me ask you this, first of all: Is there a consistent reaction
3 for all people given these drugs? Do they all act the same?

4 A. No. It's just like I gave you the example with Benadryl,
09:23 5 is a lot of people react a certain way; but, you know, you've
6 got a couple of things. We -- when we're seeing a
7 drug-facilitated sexual assault, first of all, you're using --
8 the question is, one, what dose did the individual get; two, is
9 it mixed with anything else; i.e., alcohol would be a good
09:23 10 example. And I've seen also instances where there's been sort
11 of a concoction where there's been two or three substances
12 mixed together.

13 And so, it depends on the person's state of mind,
14 other drugs they may be taking, their metabolism. There's a
09:23 15 number of factors that come into play.

16 Q. What are the typical effects that you see in somebody who
17 has been administered one of these rape-facilitation drugs?

18 A. Well, when you say this -- for example, let's take
19 Rohypnol. At low doses, we see people using those for raves
09:24 20 and it's sort of a stimulant and it gives them a good euphoria.

21 At higher dosages what you may see is they may
22 see decreased inhibitions, they may be disoriented, confused.
23 We see the same thing with GHB. At a high enough dose, they
24 may pass out; but there may be a period where they go through
09:24 25 excitation, increased libido, activity.

09:24 1 If you've ever seen anybody that, for example,
2 drank a lot of alcohol and has what is truly a blackout, they
3 seem to be operating somewhat normally, although they're
4 impaired; but they don't remember anything. And we see a
09:24 5 similar type thing; and we see this with the other related
6 drugs, like the other benzodiazepines. We can see that with
7 high doses of, for example, Xanax.

8 Q. Tell me about coming off the drug, Doctor. Once they --
9 once the person has been given the drug, once it starts to
09:25 10 dissipate from their system, tell me how the person typically
11 reacts as they are coming off the drug.

12 A. We generally see -- and this, again, is very similar with
13 some of the benzodiazepines and some of the sleep drugs in the
14 same categories. What we can see is that the person may wake
09:25 15 up and is groggy, maybe disoriented, confused. And several of
16 these drugs have been -- were actually developed as anesthetics
17 or adjuncts to anesthesia.

18 And so, at hire dosages, it's not uncommon that
19 these people may have amnesia. It's called "retrograde
09:25 20 amnesia," where they don't remember what's happened the hours
21 before.

22 Q. Does the amnesia wear off instantly and it -- suddenly
23 you've got a perfect memory again, or how does that -- how does
24 that happen?

09:25 25 A. No. The amnesia what you see is a couple of things is

09:25 1 there will be periods in which the person may not remember
2 events. This period can vary. It can be from a few hours,
3 even several minutes to longer periods.

09:26 4 What has been reported with these drugs is that
5 occasionally the person will have sort of what we call "cameo"
6 appearances, where they may remember, like, little cameos or
7 bits and pieces of the events but still there are periods where
8 it's almost like the brain hasn't formed the memory or, if a
9 memory has been formed in a hippocampus, it has not -- the
09:26 10 brain can't access it.

11 And, so, we can't understand exactly why it
12 varies so much between individuals. And we -- it's hard to
13 tell what's happening because when those people are in that
14 state, they -- they're sort of out of it, if you will.

09:27 15 Q. Do these cameo appearances occur immediately in all -- in
16 all victims or do they come back later or how does that
17 normally work?

18 A. Generally, you're going to see them emerge as -- over a
19 period of time and you may see a few more emerge and then you
09:27 20 may just see a few that stay there. But it's usually -- it's
21 almost like the pathways are trying to start firing again. So,
22 they can -- they can occur afterwards, and that can occur
23 anywhere from a few minutes to a few hours or several days or
24 months.

09:27 25 MR. KELLY: I may be about to pass the witness, your

09:27 1 Honor. Let me check with my co-counsel.

2 THE COURT: All right.

3 MR. KELLY: Your Honor, may I approach just for
4 clarification from the Court?

09:28 5 *(At sidebar with all counsel)*

6 MR. KELLY: Your Honor, some of these symptoms that
7 are toxicological, I want to go into them. Obviously, I have
8 to stay away from the ones about sexual -- but the --

9 MR. McKINNEY: It is okay to ask him if he -- it
09:28 10 fairly records signs or symptoms of her being under the
11 influence of the date rape drug.

12 MR. KELLY: Fair enough. If you'll let me do that,
13 that's all I want. That's what I thought you were objecting
14 to.

09:29 15 MR. McKINNEY: No. No.

16 *(In open court)*

17 BY MR. KELLY:

18 Q. Doctor, in your review of this case on behalf of Ms. Jones,
19 did you find any signs, symptoms of her having been
09:29 20 administered a rape-facilitation drug?

21 A. Yes, I found several. Number one, I think, was the fact
22 that she had the amnesia, that she can't remember periods of
23 time that -- when sexual activity occurred, and I think sexual
24 activity was documented in numerous records.

09:29 25 Another issue was that she had -- after receiving

09:29 1 the last drink that was mixed for her, that seemed to -- she
2 doesn't remember anything afterwards. That would indicate to
3 me that that was most likely when the -- when the drug was
4 administered.

09:30 5 The issue with regard to the -- that she seemed
6 more intoxicated than you would anticipate from the alcohol
7 that she had ingested that morning -- or, excuse me, not that
8 morning -- that evening, we found that, you know -- even
9 Mr. Bortz, I think, said that it was entirely possible that she
09:30 10 may have been intoxicated.

11 And, so, you see the amnesia, you see an onset
12 that seems to be quick, and you see a -- the issue of the
13 greater intoxication than you would anticipate with roughly
14 about three drinks, two to three drinks at most. And then also
09:30 15 I think the cameo appearances would be the things that I would
16 see that are very consistent with a drug-facilitated sexual
17 assault.

18 Q. Does the mention of a drug -- a rape-facilitation drug
19 during the person's period of consciousness matter at all?

09:31 20 A. Well, there's two things here as one gets down to it, the
21 drugs -- would the drugs be available. And there's two issues.

22 Number one is that the ruffies were mentioned
23 just prior to her being -- appearing to be heavily intoxicated.
24 And the other thing is the fact that the -- that the tests were
09:31 25 designed -- I mean, the drug tests were able to pick up -- or

09:31 1 had the access to request Rohypnol, would indicate that this
2 may have occurred before, that they were familiar with those
3 type of things.

09:31 4 The other issue is that the other -- several of
5 the other date rape drugs are pretty readily available. I
6 mean, GHB and its derivatives can be -- the recipes are on the
7 Internet and can actually be formulated with very common
8 household chemicals.

09:32 9 So, the fact that there was an awareness of date
10 rape drugs in the area to me would be also consistent with
11 drug-facilitated sexual assault.

12 Q. Doctor, I've been scribbling as you've been talking.

13 MR. KELLY: Your Honor, may I approach?

14 THE COURT: Me or him?

09:32 15 MR. KELLY: Him.

16 THE COURT: Yes, you may.

17 BY MR. KELLY:

09:32 18 Q. Normally I would ask you to do this, Doctor; but you were
19 talking fast, I was scribbling fast, and I'm going to make sure
20 I got this right. And please tell me if I don't.

21 A. Okay.

22 Q. I think the first -- the first thing that you said that you
23 saw was amnesia?

24 A. Amnesia was a strong clue.

09:32 25 Q. And then you said there were missing times. Did I

09:32

1 understand that right?

2 A. Basically there was -- when I said the -- with the amnesia,
3 there's times that -- that she can't account for, which is part
4 of that amnesia. So, there's periods -- periods of time that
5 can't be accounted for.

09:32

6 Q. I was trying to think about how to shorthand this: Cannot
7 account --

8 A. For all times -- or for times. That's fine.

9 Q. Okay. All right.

09:33

10 A. There's the cameos.

11 Q. The cameos. Is that the same as flashbacks?

12 A. Some people call them that. It's just basically -- I don't
13 know if it's exactly the same because a flashback can be
14 something other than a cameo.

09:33

15 Q. Got you. We'll call it cameo. Did you mention sexual
16 activity with no memory?

17 A. That's part of the amnesia. We would also have the
18 intoxicated more than anticipated, the sudden onset of
19 intoxication.

09:33

20 Q. Okay. Sudden --

21 A. And then also greater intoxication than anticipated.

22 And then awareness of the date rape drug, I
23 guess, would be the best. There's one other one that I didn't
24 mention, which would be you have that -- the last drink that
25 she received was mixed by someone else.

09:34

09:35

1 Q. Fair enough.

2 A. Uh-huh.

3 Q. Those are the ones I wrote down. We covered all the ones
4 that I wrote down. Is that all of them, Doctor?

09:35

5 A. I think so.

6 Q. Doctor, when you evaluate a hypothetical case -- not
7 necessarily this one, when you evaluate a hypothetical case and
8 you see each of these items in that case, can you make a
9 finding, can you make a determination that a rape facilitation
10 drug was used even without a positive toxicology test?

09:36

11 A. I think these are all consistent with the actions of
12 several of the drugs that are used for drug-facilitated
13 assaults. And so, I would say more likely than not that the --
14 that one was involved.

09:36

15 Q. Is that really the whole -- or one of the whole purposes
16 for these rape facilitation drugs is to use them and they leave
17 the body quickly?18 A. That, plus the aspect that the individual is in some way
19 rendered where that they are more subject to or can't resist
20 the sexual advances.

09:36

21 MR. KELLY: Pass the witness, your Honor.

22 THE COURT: All right. Any inquiry from defense?

23 MR. McKINNEY: I do have some questions, your Honor.

24 THE COURT: Yes, sir.

09:36

25 ///

CROSS-EXAMINATION

BY MR. McKINNEY:

Q. Doctor, good morning. I represent Charles Bortz. I don't believe we've ever met?

A. No.

Q. I'm Andrew McKinney. How do you do?

A. Doing good. Thank you, sir.

Q. Thank you. Doctor, I'm going to be a little bit longer with you than Mr. Kelly was, so --

THE COURT: We'll break whenever you need to, sir.

THE WITNESS: Thank you.

BY MR. McKINNEY:

Q. -- so please stand by.

I understand -- well, you alluded to, in some of your answers to Mr. Kelly, that you work with lawyers as some part of your means of making a living. Is that correct?

A. That's correct.

Q. And do you charge for your services by the hour or on a flat-fee basis?

A. Both. It depends on the particular case. Generally it's by the hour.

Q. And what would your hourly rate be?

A. Four hundred for case review and \$500 for deposition testimony.

Q. Per hour?

09:37

1 A. Yes.

2 Q. And about how many cases do you have going at this time?

3 I'm not asking you the details of the case or to violate any
4 confidence, just how many cases do you have going at this time?

09:38

5 A. When you're talking about cases, there's a number of times
6 where I get contacted that I look up some information and
7 provide back to the attorney and that's as far as it goes. I
8 would say it can vary anywhere from as few as five to -- it may
9 go on sometimes maybe ten to 15.

09:38

10 Q. At one time?

11 A. Correct. Again, with a -- just to qualify that, one of the
12 things that may happen is, for example, I may be contacted and
13 there may be several months before additional information or
14 I'm called to actually do something other than just look at the
15 case.

09:38

16 Q. Understood. And, by the way, a little bit off track,
17 when were you initially contacted to assist Mr. Kelly in this
18 case?19 A. You know, I don't remember. I didn't look back -- when I
20 was getting ready for the trial, I didn't look back when that
21 occurred.

09:38

22 Q. Sometime in 2010. Is that correct?

23 A. I think so.

24 Q. All right. Now, back to the -- your -- the business part
25 of your working with lawyers. On an analyzed basis, how much

09:39

09:39 1 money did you make last year in consulting with attorneys?

2 A. That, I don't know because --

3 Q. Approximately?

4 A. I can't even tell you because my consulting also includes
09:39 5 not only working with attorneys but it also includes when I'm
6 giving lectures for drug companies or doing occasionally some
7 consulting work with pharmaceutical companies or working with,
8 for example, different -- like the psychological associations
9 and that sort of thing. So, that's all lumped into my income
09:39 10 as far as consulting.

11 Q. All right. Thank you for that.

12 Now, when you consult for a drug company or give
13 a speech or something of that nature, are you also charging 4
14 to \$500 an hour?

09:40 15 A. When it comes down to -- for example, a drug company, if I
16 give a speech, that's -- or a talk, that's usually around
17 \$1,500 for about an hour talk, a thousand to \$1500. So, that
18 varies depending on the particular activity and that sort of
19 thing.

09:40 20 Q. Do you typically travel to give those speeches?

21 A. Sometimes I do; sometimes I don't. Sometimes we're doing
22 them by virtual -- now, virtual technology.

23 Q. All right. Do you have preparation time before you do
24 those speeches?

09:40 25 A. In some of those, I do; but many times it's exactly what

09:40 1 I'm working on or areas that I'm in. So, it may be the results
2 of some grant money that -- a project that I've done; and then
3 they ask me to report the results.

4 Q. All right, sir. So, you cannot give our jury an
09:40 5 approximation as to how much money you made last year or the
6 year before working with attorneys?

7 A. No, sir, I don't know that. I just never have looked it
8 up.

9 Q. All right, sir. Let's talk generally then about drugs and
09:40 10 the effect on their body -- on the body, particularly drugs
11 that you classify as date rape drugs. Is it okay if I use the
12 term "date rape"?

13 A. That's the old classification, and I'm very comfortable
14 with that because that's what they used to be called. We've
09:41 15 emerged into using "drug-facilitated sexual assault drugs,"
16 which is a little bit more. So, "date rape" is little bit
17 easier terminology as far as you talking about it.

18 Q. All right. And are the date rape drugs that you have
19 mentioned to our jury, are they what toxicologists and
09:41 20 pharmacologists refer to as dose response type drugs? The
21 larger the dose, the larger the response, as the dose wears
22 off, the response begins to erode in more or less approximate
23 relationship to the level of drug remaining in the body?

24 A. That's actually -- the dose response relationship is a
09:41 25 basic tenet in pharmacology. Every drug that we look at has

09:41 1 a -- is usually having a dose response. And so, the type of
2 actions that you're describing would be -- we would anticipate
3 a dose response with that, meaning that a dose would occur
4 and that as you increase the dose, you get an increasing
09:42 5 action.

6 Now, what you have to be careful about is you
7 can't just simply say -- for example, with the central acting
8 drugs, as you increase the dose, what you may start getting
9 is -- for example, let's say you started with sedation. You
09:42 10 may reach a point where you start getting excitation. So, it
11 is a dose response that is related to how much is the drugs
12 getting into the central nervous system.

13 Q. In case it becomes important as your examination
14 progresses, let me try to make this as clear as possible for me
09:42 15 and hopefully for our jury; but you never know how good or bad
16 I'm going to be doing on a particular day.

17 If I understand what you're saying, let's say
18 that we have a specified dose of Rohypnol and it's given to an
19 individual. You would expect that individual, subject to the
09:43 20 individual's own susceptibility and particular body chemistry
21 and metabolism and whatnot -- that's also a factor on how these
22 drugs interact, correct?

23 A. Correct, as well as other drugs that may be there.

24 Q. In other words, there's a variability among individual
09:43 25 people. Some people react one way to a drug, other people

09:43 1 react a different way and sometimes the same person will react
2 differently to the same drug and the same amount on different
3 occasions for a variety of reasons.

4 A. Yes.

09:43 5 Q. Now, is what you're telling us, is that on the dose
6 response relationship -- and let's use Rohypnol as an
7 example -- that with a given dose, you expect the response to
8 change over time to perhaps move from sedation to lack of
9 inhibition to excitability or whatever mood is being generated
09:44 10 in the brain by the chemical reaction, and then eventually
11 amnesia and waking up?

12 A. Well, I think --

13 Q. Or something along those lines? In other words, you're
14 saying the response progresses over time and changes over time?

09:44 15 A. Somewhat. Let me see if I can clarify it.

16 When we talk about dose response, that is
17 actually looking at that as you give a different dose -- for
18 example, if I gave you 1 milligram of this drug, you might get
19 a little sleepy. If I give you 2 milligrams, you get more
09:44 20 sleepy. So, that's truly a dose response.

21 Now, what you're talking about is the spectrum of
22 a person getting a single dose, if I'm correct.

23 Q. Well, two things. I'm talking about a single dose of a
24 specified level -- and I have no idea what the level would
09:45 25 be -- that that dosage would be typically expected to produce a

09:45 1 range of responses while the drug remains active in the body
2 and there is a variability among the type of responses based
3 upon the dosage?

4 A. It can be, yes.

09:45 5 Q. And is that common with Rohypnol and the other date rape
6 drugs; that is, you get a level of response, a relatively low
7 level of response with a relatively low dose. As you increase
8 the dosage, the response becomes more marked or more patent or
9 more noticeable. And then at the highest levels, you probably
10 produce death, but we're not talking about that in this case.

11 But there's an increasing level of reaction based upon an
12 increasing level of dosage?

13 A. You would anticipate that -- if you were doing an animal
14 experiment where that you could give a controlled amount of
09:45 15 dose and you were monitoring certain things, you would
16 anticipate that probably 90 percent of the animals would
17 respond all about the same. You would have, you know, a
18 percentage of high responders and a percentage of low
19 responders. Some would be more hypersensitive. Some would be
09:46 20 less sensitive.

21 But you would anticipate that that would be
22 somewhat predictable in a controlled environment. Knowing a
23 given dose, removing any of the other variables or keeping
24 those constant, you would expect that.

09:46 25 Q. All right. Now, as the drug -- well, let me ask the

09:46 1 question this way.

2 In order to get, for example, sedation as a
3 response to one of these drugs, does the drug actually have to
4 be in the body?

09:46 5 A. Well, the question is, is whether you get sedation.
6 Sometimes what you find is that the drug -- you would
7 anticipate the drug to be in the body to have a sedative
8 effect. But say -- for example, one of the things we see with
9 people using Ecstasy is the heightened activity that they see
09:47 10 under the influence of Ecstasy and the secondary effects of
11 possibly dehydration. What you find is, as the drug wears off,
12 we find that there is -- they may be more sedated after that
13 excitatory effect wears off.

14 We see that with people that drink, is they go
09:47 15 out and when they're partying, they seem to have a lot of
16 energy; but then as the alcohol is wearing off, they're just
17 sort of dead tired and they have sort of a hangover the next
18 morning. So, you can see that with these type drugs also.

19 Q. All right. I probably then picked the wrong example.

09:47 20 One of the products or effects of a date rape
21 drug is to lower the inhibitions of the person who's taking the
22 drug?

23 A. Either lower the inhibitions or lower the person's
24 inability to fight off the advances.

09:47 25 Q. All right. Now, taking either one of those two

09:47 1 characteristics, once the drug is no longer present in the
2 body, does the person who ingested the drug continue to have
3 lower inhibitions and continue to lack the ability -- assuming
4 they're not just passed out because they're tired or exhausted
09:48 5 or whatever, assuming there's not a physical reason for being
6 unable to resist, is there a chemical reason for being unable
7 to resist or a chemical reason for having a lack of inhibition
8 when the drug is no longer present in the body?

9 A. Well, you can anticipate once the drug was out of the body
09:48 10 that you would not have those actions. However, one of the
11 things which we don't know is -- for example, we're starting to
12 see some new scanning images, for example, with people that are
13 on drugs like methamphetamine, marijuana, and things like that,
14 that even after they've stopped taking the drug, that their
09:48 15 brain chemistry has been changed or altered and effects still
16 remain up to 14 months after they've had the drug out of their
17 body.

18 So, it's possible that an individual exposed to a
19 drug, either chronically or a high dose of a drug, may have
09:49 20 brain chemistry changes that may remain. Those are hard to
21 quantitate.

22 Q. Could I stop you there, Doctor?

23 A. Sure.

24 Q. Because we're not talking about chronic, long-term drug
09:49 25 use. We're not talking about methamphetamines. We're talking

09:49 1 about a woman who alleges that on a single discreet occasion,
2 she was given a date rape drug.

3 A. Right. But if you remember, what I also said was either
4 chronic use or maybe even a high dosage of the drug.

09:49 5 Q. All right.

6 A. So, either one could have occurred. We don't know that
7 but --

8 Q. Excuse me.

9 THE COURT: No, no. Let him finish.

09:49 10 Go ahead, Doctor.

11 A. We don't know that on every individual because clinically
12 we can't pull everybody in and evaluate them with the scanning
13 that we need. But we do know that drugs do that and can do
14 that, that even after their body -- after they've been
09:49 15 eliminated from the body, there may be residual changes that
16 may still be there.

17 BY MR. McKINNEY:

18 Q. Are you aware of any documented -- objectively,
19 scientifically, or medically documented changes in Ms. Jones'
09:50 20 body that you can point to?

21 A. Not from a standpoint of any scanning or anything that's
22 been done, no.

23 Q. All right. The amnesia element of Rohypnol, once the drug
24 leaves the body, does the person who's ingested the drug cease
09:50 25 having amnesiac -- amnesia type episodes or do those continue?

09:50 1 A. Those can be continued.

2 Q. All right. So, even after the drug leaves the body, you're
3 telling us that the person can have a period of recovered
4 memory, then a period of no memory, and then a period of
09:50 5 recovered memory and -- even without the drug in the body?

6 A. Yes. And that's been documented -- let me point out an
7 important thing that I tell my students.

8 Number one, it's been documented. We know that
9 Ambien, that people can have these blackouts where they've
09:51 10 sleep drove and they don't remember anything that's happened
11 and the FDA put a warning out with it. Ambien is in this same
12 general class. It's not called a date rape drug, but it has
13 been used. We know that benzodiazepines can do it, and we know
14 alcohol can do it.

09:51 15 The other thing you have to be aware is -- and
16 this is the example I give my students -- you drive home every
17 day and let's say you've been sitting in court all day and what
18 happens is you just start thinking about the case, you drive
19 home. You're home and somebody says, "Did you pass the
09:51 20 QuikTrip?"

21 Well, you don't really remember passing the
22 QuikTrip; but you know you pass it every day, so you fill in
23 that. So, one of the things you have to look for is some
24 details that appear to be coming back may be filled in because
09:51 25 the body tries to do it and -- but the amnesiac effects, we

09:51 1 know with alcoholics, we know with -- and even some people that
2 have taken Ambien for the first time, that there are periods of
3 amnesia that have remained long after the drug has been out of
4 the body.

09:51 5 Q. With alcoholics and who else?

6 A. People that are on Ambien, which affects the GABA receptor,
7 which is the same type of receptor that many of these date rape
8 drugs do. Those are the two in particular that we see.

9 So, this general class of drugs has been
09:52 10 associated with it -- when I say "class," it's more a
11 pharmacological classification of the sedative hypnotics --
12 also, with regard to acting on the GABA receptor, which would
13 include some of the date rape drugs.

14 Q. All right. You said a lot there, Doctor; and I want to try
09:52 15 to break it down a little bit because it may become important
16 later.

17 Do you have peer reviewed -- and you understand
18 what a "peer-reviewed document" is?

19 A. Yes.

09:52 20 Q. -- peer-reviewed authority for the proposition that a
21 single exposure to a date rape drug will, after the drug has
22 left the body, produce periods of discrete clarity or actual
23 recall, followed by periods of total amnesia, followed by
24 periods of clarity to one degree or another and ultimately no
09:53 25 more amnesia? Do you have peer-reviewed authority for that

09:53 1 position?

2 A. No, sir. There's -- and I would doubt that you would find
3 peer reviewed because these are more of case observations,
4 which a lot of times may not be written up. And what you look
09:53 5 at for this is you look at other drugs that are similar.

6 And, first of all, the date rape drugs, Rohypnol,
7 gamma hydroxy butyrate, those type of drugs are not used
8 medically. But the fact is if you want to say, "Do we have
9 peer reviewed," we know the FDA put -- put a warning out for
09:53 10 somnambulism, which is sleepwalking, and sleep driving for the
11 drugs that are used for sedative hypnotics; and these drugs
12 would fall in that class.

13 So, by inference I would say that that's
14 consistent pharmacologically.

09:54 15 THE COURT: Ladies and gentlemen, just briefly,
16 peer-reviewed articles are articles that are not published
17 until after someone in the field who has similar expertise has
18 reviewed the article and pronounced them publication worthy.
19 There are many publications that will print articles without
09:54 20 that, without another authority having reviewed it and
21 qualified it.

22 Peer review exists in just about every
23 respectable profession, law, medicine, I'm sure pharmacology.
24 Does everybody understand that concept?

09:54 25 Is that a fair statement?

09:54 1 THE WITNESS: I think you did a real good job, Judge.

2 BY MR. MCKINNEY:

3 Q. And just to round that out, a peer-review study is one
4 where other people in the same area, other Ph.D.s in toxicology
09:54 5 and pharmacology, read the document, read the study and say,
6 "Yes, this meets all of the scientific criteria to be reliable
7 and useful in the field of pharmacology and toxicology."

8 A. Correct. And even with peer review, we do find that papers
9 are retracted because of new information that's come up or
09:55 10 information that wasn't done.

11 But I think an important issue with peer review
12 that you have to keep in mind is that if you -- it takes
13 approximately six months to a year to get a paper reviewed.
14 So, if we had to wait for a peer-reviewed article on every
09:55 15 clinical aspect, then we would be way behind.

16 Q. Well, just to kind of underscore the point, if a person
17 claims, on a single exposure to a date rape drug, to have had a
18 period of amnesia, a period of clarity, followed by another
19 period of amnesia, followed by recovering memory and ultimately
09:56 20 recovered memory, while you may think that there is
21 non-peer-reviewed support for that proposition, in terms of
22 writings and articles and other literature that other experts
23 can go look at to validate and say that that scenario is
24 possible, what you're telling the jury is no such peer-reviewed
09:56 25 authoritative articles exist, correct?

09:56 1 A. Correct. It would do every patient with all the variables
2 that are there. In fact, the issue becomes -- when you are
3 looking at scientific proof, you have to look at the different
4 variables that come into play; and those all have to be taken
09:56 5 into consideration. And so, the issue is on an individual
6 case, you would have multiple, multiple case studies. The
7 question becomes: Who is going to write those up?

8 And so, we can't just -- peer review is
9 important; but what you have to do many times is you have to
09:57 10 look at peer-reviewed articles in other areas such as I just
11 gave you and you infer from similar mechanisms of action --
12 this is a basic tenet of pharmacology of evolving new
13 information -- and say: Is that consistent?

14 And that's what I did here.

09:57 15 MR. McKINNEY: May I approach the witness, your Honor?

16 THE COURT: You may.

17 BY MR. McKINNEY:

18 Q. Do you recognize this as your report?

19 A. Yes, sir, it is.

09:57 20 Q. All right. Now, in your report you list some criteria on
21 Page 3 of your report?

22 A. That's correct.

23 Q. Would you review all of those criteria, please, without
24 disclosing what they are at this time, please.

09:58 25 A. Yes, sir, I'm familiar with these.

09:58 1 Q. All right. Now, are these the criteria that you use to
2 determine whether someone was or was not or may have been or
3 probably was not under the influence of a date rape drug?

4 A. Those are part of the criteria I use, and they're based
09:58 5 upon -- they're the foundations for these ten criteria, which
6 are actually in a training manual -- are based upon
7 pharmacological, which includes my 30 years of training.

8 Q. Yes. But I'm asking you specifically about the ten
9 criteria that you chose to put in your report that you prepared
09:58 10 in this case for Todd Kelly.

11 A. Yes, sir.

12 Q. And the ten criteria that you put in your report for Todd
13 Kelly are the ten criteria that you thought were important in
14 identifying or evaluating whether someone like Ms. Jones was
09:59 15 under the influence or not of a date rape drug on the occasion
16 in question?

17 A. Correct.

18 Q. All right. Now, let's talk about subjective reporting
19 versus objective findings. Okay?

09:59 20 A. Yes.

21 Q. And you're familiar with that concept, aren't you?

22 A. Absolutely.

23 MR. MCKINNEY: May I approach the board, please, your
24 Honor?

09:59 25 THE COURT: Yes, sir.

09:59 1 BY MR. MCKINNEY:

2 Q. I apologize for my awful handwriting. It's not good, and
3 it never has been.

4 Subjective reporting is typically the person like
10:00 5 Ms. Jones, her personal, voluntary, self-reported signs and
6 symptoms, correct?

7 A. Correct.

8 Q. Subjective can also be how I, for example, might interpret
9 what you are doing right now. I might say that the witness
10:01 10 appears to be sober, alert, communicative, his eyes are
11 properly focused, et cetera, et cetera. That's not an
12 objective finding -- or that's my subjective impression of you,
13 correct?

14 A. Correct.

10:01 15 Q. Now, an objective finding would be if I were to put you on
16 some scales and weigh you and find out your weight or measure
17 your height or your waist or your shoe size, your heart rate,
18 your blood pressure, take an x-ray. That is an objective
19 finding, correct?

10:01 20 A. That's correct.

21 Q. A subjective finding is 100 percent within the control of,
22 for example, Ms. Jones or a witness who might be describing an
23 event that the witness claims to have seen?

24 A. Correct.

10:01 25 Q. If we look at your ten diagnostic criteria for whether or

10:01 1 not someone is or is not under the influence of a date rape
2 drug -- and do you have your report handy there in front of
3 you?

4 A. I should have. Yes, I've got one.

10:02 5 Q. All right. The first criteria for determining whether or
6 not someone is or is not under the influence of a date rape
7 drug is whether the victim reports that she was under the
8 influence of a drug during a sexual assault, correct?

9 A. That's correct.

10:02 10 Q. That would be a subjective report, correct?

11 A. Correct.

12 Q. I'm going to Item Number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10.

13 And just for short --

14 MR. McKINNEY: Judge, may I stand at this easel for a
10:03 15 moment?

16 THE COURT: You may.

17 MR. McKINNEY: I'm blocking the jury's view.

18 THE WITNESS: You can stand here.

19 MR. McKINNEY: I'll do it like this. There we go.

10:03 20 BY MR. McKINNEY:

21 Q. Your first criteria is subjective, correct?

22 A. Correct.

23 Q. The second on your criteria list is the toxicology test
24 indicates that the victim was under the influence of a drug.

10:03 25 That's an objective finding, correct?

1 A. Correct. You might just want to check it. It might be
2 easier for you. Just whatever you want to do.

3 Q. Thanks, but I'm going to do this, too, just so I remember
4 later.

5 The third criteria is the victim reports drinking
6 with friends and having just one or two drinks, too few to
7 account for the high level of intoxication the victim
8 experienced. That would be a subjective criteria?

9 A. That's subjective, but it has one aspect of objective there
10 in the fact that you're quantitating the drinks.

11 Q. Well --

12 A. But the overall thing is subjective.

13 Q. Well, the victim is quantifying the drinks, correct?

14 A. Right.

15 Q. And that is a subjective quantification by the victim. The
16 victim could say -- the victim could say, "I had one drink"
17 where, in fact, the evidence might show the victim had 20.
18 It's entirely subject to the victim's ability to remember and
19 report accurately?

20 A. Correct.

21 Q. The fourth item is the victim recalls feeling, quote,
22 "strange," close quote, then suddenly feeling very drunk. And
23 "very drunk" is in quotes?

24 A. Correct.

25 Q. Again, that would be subjective, correct?

10:04

1 A. Yes, sir.

2 Q. Entirely based upon what the victim reports?

3 A. Correct.

10:04

4 Q. Item Number 5, the victim reports being heavily intoxicated
5 very rapidly within a time period of five to 15 minutes.

6 Again, a purely subjective report --

7 A. Subjective.

8 Q. -- from the victim?

10:05

9 6, waking up eight or more hours later uncertain
10 about what happened but believing she may have been raped
11 because she is experiencing vaginal soreness or other signs of
12 sexual activities. That would be her subjective reporting,
13 correct?

14 A. Correct, but you've got an objective component.

10:05

15 Q. It's subject to objective verification?

16 A. Right. On the sexual activities, looking for the presence
17 of semen, looking for the presence of any -- any evidence of
18 sexual activity.

19 Q. Understood.

10:05

20 A. So, that's objective.

21 Q. Understood. That is, whether or not there was actually sex
22 can be objectively verified?

23 A. Correct.

10:06

24 Q. But what the patient says about her personal condition,
25 pain, et cetera, purely subjective?

1 A. Correct.

2 Q. Item 7, being told she was given roaches, ruffies, Mexican
3 Valium, R-2, GHB or Easy Lay. What is "Easy Lay"?

4 A. Easy Lay can be the GHB or Rohypnol. It refers to --

5 Q. I get that. I just was wondering what the chemistry was
6 behind that.

7 Again, that would be a subjective report from the
8 patient or from the victim?

9 A. Correct.

10 Q. Item 8, the victim reports that witnesses told her she
11 suddenly appeared drunk, drowsy, dizzy, confused -- confused
12 with impaired motor skills and impaired judgment.

13 This would be a subjective report from someone
14 like Ms. Jones as to what other people told her about her
15 condition?

16 A. Correct.

17 Q. Item Number 9, the victim reports symptoms of amnesia.
18 Again, you can't measure amnesia. There's no test for it.
19 It's what the victim says happened to her or says she
20 experienced?

21 A. Right.

22 Q. She remember -- this is the tenth item. She remembers a
23 sequence of cameo appearances -- "cameo appearances" being in
24 quotes -- in which she recalls waking up, possibly seeing the
25 assailant having sex with her but being unable to move and then

1 passing out again. These memories may be associated with loud
2 noise or pain.

3 And again, that's subjective, correct?

4 A. Correct.

5 Q. Now, in regard to these cameo appearances, do I understand
6 correctly that what you're referring to is that during the
7 actual period of amnesia, the initial phase of amnesia during
8 which the date rape drug is acting, that the victim may
9 remember brief snatches of events, perhaps not very clearly,
10 but brief snatches of events after she ultimately awakens?

11 A. Yes.

12 Q. Cameo appearances are not a description of what happens
13 after the victim awakens, having slept off the effect of drugs,
14 correct?

15 A. Well, you talked about a period of amnesia and the
16 person -- if they have amnesia, the drug is out of their
17 system. And so, that amnesia -- those cameo appearances can
18 occur after the -- as you said, and after the drug has worn
19 off.

20 Q. Actually, I didn't say that, Doctor. You did.

21 A. I think you just said it just a minute ago.

22 THE COURT: Okay. Never mind. Let's go.

23 BY MR. McKINNEY:

24 Q. I'm asking whether or not you're saying that these cameo
25 appearances continue to occur after the effects of the drug

10:09 1 have worn off, after the victim has gone to sleep and then
2 woken up. And you're telling us that the cameo appearances can
3 continue to occur?

4 A. Yes, sir.

10:09 5 Q. But there's no peer-reviewed literature to support that,
6 correct?

7 A. Not that specifically talks about that, no.

8 Q. That would be your interpretation of non-peer-reviewed
9 matters, correct?

10:10 10 A. Correct.

11 Q. Now, on the objective report, on the objective side, the
12 only objective criteria that you note is the toxicology test
13 indicates the victim was under the influence of a drug,
14 correct?

10:10 15 A. Yes, sir.

16 Q. And you've talked about the Landstuhl toxicology report,
17 have you not?

18 A. Yes, sir.

19 MR. McKINNEY: Let's put Bortz 73 up, please.

10:10 20 BY MR. McKINNEY:

21 Q. And we'll go through Bortz 73; and then we're going to
22 compare it to another document in just a second, Doctor.

23 And so the jury is completely clear, you're not
24 here to advocate for one side or the other, are you?

10:11 25 A. No, sir.

1 Q. You're a totally disinterested and objective scientist who
2 just doesn't have a dog in this fight?

3 A. I am basically -- this is in some of the cases when people
4 call me, is that I give the opinion based upon what I see in
5 the information.

6 Q. All right. And you have expressed the opinion that the
7 testing done by the Department of the Army is that the medical
8 facility in Landstuhl, Germany is fatally flawed, in your
9 opinion?

10 A. Based upon if this is being represented as the post-event
11 drug screen.

12 Q. All right. And that's because if we go to the second
13 page --

14 MR. McKINNEY: Highlight the date of the report,
15 please.

16 No, it's right here. Highlight this, please,
17 right here. Right here, please, these two lines.

18 Technical difficulties. There we go.

19 BY MR. McKINNEY:

20 Q. The report is dated -- or purports to be dated the day
21 before Ms. Jones went to see the doctor, correct?

22 A. Correct.

23 Q. Now, are you under the impression that Ms. Jones, in fact,
24 went to see a doctor the day before she actually saw the
25 doctor?

10:13 1 A. She was being transferred. It's possible. What I looked
2 at is that July 27th, '05 --

3 Q. Sorry, Doctor. Straightforward question. Are you under
4 the impression that Ms. Jones, on July the 27th, went to a
10:13 5 doctor and gave a urine specimen?

6 THE COURT: Okay. Now, he's sworn to tell the whole
7 truth. So, let's let him state his answer. And then you can
8 then follow-up with additional questions.

9 A. What I was going to say is, is that when I looked at this
10:13 10 data, I was expecting a drug test dated on July 28th. On
11 July 27th, I said: In order to explain this, this could either
12 be explained that she had a drug test on July 27th, as this
13 implies, and, therefore, the question is: Did she have a drug
14 test before then?

10:13 15 And again, as I said before, is it would be
16 unusual that Rohypnol would be tested in a general drug screen.
17 So, if this record is correct, this would say that she had the
18 drug screen on July 27th at 9:00 o'clock.

19 BY MR. McKINNEY:

10:14 20 Q. And with all due respect, Doctor, I'm going to have the
21 question read back because I'm pretty sure that you didn't
22 answer it.

23 MR. McKINNEY: So, if we could have it read back. I
24 object as not being responsive at all to the question.

10:14 25 THE COURT: Yes, sir.

1 The question is: Sorry, Doctor. Straightforward
2 question. Are you under -- under the impression that
3 Ms. Jones, on July 27th went to a doctor and gave a urine
4 specimen?

5 A. If I'm -- and you're asking for an answer, and I am saying:
6 If I believe the test as it stands and the records are not in
7 error, then she did have to have it. If this is wrong, then
8 she didn't have the drug test on July 27th, that there's an
9 error in the medical record.

10 BY MR. McKINNEY

11 Q. Well, Doctor, you've looked at her deposition, Ms. Jones'
12 deposition?

13 A. Yes, sir.

14 Q. You've looked at the State Department investigation in this
15 case?

16 A. Yes, sir.

17 Q. You've looked at a number of other witnesses' testimony and
18 other documents in this case?

19 A. Yes, sir.

20 Q. Have you seen any indication whatsoever, other than the
21 date on this report, that Ms. Jones went to a doctor the day
22 before she alleges she was raped and gave a urine sample?

23 A. No. That's why I said this was flawed because if this was
24 truly the test afterwards, then it's flawed because there's an
25 error on this record, two errors on this record.

10:15 1 Q. Okay. Okay. Well, then take that logic -- take your logic
2 to its logical extension.

3 If you were to send out a letter yourself or a
4 report that had the wrong date on it, would your report be
10:15 5 fatally flawed, just as you say this lab report is fatally
6 flawed because it may have the wrong date on it; or does that
7 logic not apply to you, it only applies to the Army's hospital
8 in Germany?

9 A. No, sir. What I am saying is: When you're looking at a
10:16 10 critical time -- for example, if one of us, juror, me, the
11 Judge, any of you, sent out a report that just basically had a
12 wrong date on it and you were not trying to corroborate a
13 chronological issue, then that would be a problem. And so,
14 nowhere have I seen that this has been corrected or any
10:16 15 indication that this date was wrong.

16 So, it says July 27th. I do see medical records
17 that have a lot of errors in them. So, either this is an error
18 on the medical records or the report -- if we take it at face
19 value, then the report is flawed.

10:16 20 Q. Well, let's take another thing at face value, then, on this
21 report. Do you see the name "Schulz" there highlighted for
22 you?

23 A. Yes, sir.

24 Q. All right. Do you know who that person is?

10:16 25 A. She was a physician, an Army physician.

10:16

1 Q. And what did that doctor do?

2 A. She did the exam on Mrs. Jones.

3 Q. On what date?

4 A. That was on the 28th.

10:17

5 Q. All right. And it shows that Dr. Schulz requested this
6 blood screen -- this urine screen, correct?

7 A. Correct.

8 Q. And have you seen any evidence in Dr. Schulz' records that
9 she saw Jamie Leigh Jones on the 27th?

10:17

10 A. No, sir.

11 Q. All right. And so, can we not safely conclude reasonably
12 that the date is a typographical error because we can validate
13 who ordered the report and we know when Dr. Schulz captured the
14 urine specimen; that is, sometime on the 28th?

10:17

15 A. In other words, we can agree that there's an error in the
16 medical record.

17 Q. Well, we can agree that the date is wrong?

18 A. Well, that's part of the medical record, not only the date
19 but the time is wrong.

10:17

20 Q. All right. The time is off by maybe an hour or two,
21 correct?

22 A. Probably, yeah, hour and a half to two, right.

23 Q. All right. The report itself -- let me ask you this.

24 How long does Rohypnol stay in the urine

10:17

25 typically? What's the range?

10:17

1 A. It can go up to 72 hours.

2 Q. And what's the minimum?

3 A. It can be gone within a day.

4 Q. 24 hours?

10:18

5 A. Correct.

6 Q. This urine screen was captured in plenty of time -- this
7 urine sample was captured in plenty of time, if it was taken by
8 Dr. Schulz within 12 to 14 hours of Ms. Jones' allegations --
9 or within -- yeah. If it was taken within 24 hours of

10:18

10 Ms. Jones allegedly ingesting Rohypnol, then this urine
11 specimen was taken in plenty of time to actually find Rohypnol
12 in her system, correct?

13 A. Correct, assuming that she had not voided a large amount of
14 the urine prior to taking this urine sample.

10:18

15 Q. Tell me again what the half-life of Rohypnol is.

16 A. Rohypnol can be four hours to six hours, depending on
17 people. Generally it's considered around three -- three, four
18 hours, I think.

19 Q. And what is a heavy dosage of Rohypnol sufficient to
20 produce amnesia?

10:18

21 A. Well, it varies. As far as we know, that amnesia can occur
22 with 1 to 2 milligrams. In some people it can go in higher
23 than that. So, the point becomes, is that it doesn't
24 necessarily have to be a real high dose if it's combined with
25 other drugs or other substances such as alcohol.

10:19

10:19 1 Q. So that we understand -- now, what's the half-life again?

2 A. It's average around four hours, I would say.

3 Q. All right.

4 A. I've seen anywhere from three to six hours, depending on
10:19 5 the information or whatever the subject is, or title of the
6 article is.

7 Q. So, if Ms. Jones had a dose of one milligram -- which would
8 be a relatively small dose -- would it not, of Rohypnol.

9 A. Correct.

10:19 10 Q. I think if you work backwards on the math, by about 10:30
11 or 11:00 in the morning, that 1 milligram would remain in her
12 system to the point of about an eighth of a milligram. Would
13 that be about, right?

14 A. Well, you're looking at probably blood levels and the
10:20 15 question is --

16 Q. We're talking about -- okay.

17 A. You're talking about urine levels. So, again, one of the
18 issues that would have been nice on these reports, as the FBI
19 report says, is to have blood and urine. We don't have the
10:20 20 blood and urine test for Rohypnol or -- we just have a urine
21 test for Rohypnol.

22 Q. Isn't urine the preferred method for screening for
23 Rohypnol?

24 A. Generally for benzodiazepines, the preference would be
10:20 25 urine because it stays around; but it does have limitations

1 with it also.

2 Q. I think my question, though, was: If we do the math and
3 work backwards using a half-life formula, and assume a low dose
4 of Rohypnol of 1 milligram, there would still be easily
5 detectable levels of Rohypnol in Ms. Jones' system by the time
6 the urine specimen was captured. Isn't that so?

7 A. Potentially, if she -- again, if she urinates, that's going
8 to decrease the concentration.

9 Q. I understand it's going to decrease the concentration. But
10 still, using your half-life factors or your half-life formula,
11 there would still be easily detectable levels of Rohypnol by
12 10:30, 11:00, or even at noon the following day?

13 A. Again, it's possible. But you have to factor in -- we
14 don't know how many times she may have gone to the bathroom
15 before the collection. We know there's one time. And we also
16 don't know how fast she metabolized the drug.

17 Q. Would it be fair to say, Doctor, that the objective testing
18 shows no Rohypnol in her system?

19 A. The objective testing, with the limitations that I've
20 talked about, does show none detected.

21 Q. So, you have no objective evidence, no verifiable
22 scientific or medical evidence that would show that Rohypnol
23 was in Ms. Jones' system. Fair statement?

24 A. I disagree with that, because I think the objective
25 information is an important scientific information. If someone

1 comes into the doctor and says, "I hurt. I have a sharp pain,"
2 you can't say, "Well, that's a subjective symptom. We're going
3 to ignore it." You act on that.

4 So, all these other things that we put
5 subjective, knowing that, with the pharmacology of the drugs, I
6 think there is scientific evidence that shows that.

7 Q. I'm saying objective scientific evidence. Not the
8 patient's subjective complaints, but objective, independent,
9 verifiable, tangible evidence, objective evidence. Is there
10 any of that that would show that Ms. Jones had Rohypnol or any
11 other drug in her system at the time she alleges?

12 A. Not, again, with the drug tests that were done with the
13 limitations that I talked about.

14 Q. Well, any other objective scientific tangible evidence that
15 we can mark as an exhibit and put into evidence?

16 A. When you look at these drugs, you're mainly looking at
17 subjective symptoms, and so that is what you look at.

18 Q. All right. Let's visit, then, the ten criteria again.

19 MR. McKINNEY: If -- if I may approach?

20 THE COURT: You may approach.

21 BY MR. McKINNEY:

22 Q. Do you understand that Ms. Jones' history in this case is
23 simply that she took two sips of a drink and remembers nothing
24 until she woke up the next morning?

25 A. Yes, sir.

1 Q. Keeping that history in mind --

2 A. Barring the fact that she does have the cameos.

3 Q. She has flashbacks?

4 A. Well, I use the "cameos" because flashbacks can be a little
5 bit different.

6 Q. All right. Fine.

7 If we go through the criteria, the first
8 criteria, "The victim reports that she was under the influence
9 of a drug during a sexual assault," that would be yes, correct?

10 A. Correct.

11 Q. Regarding objective evidence, the answer would be no?

12 A. Correct. And I would, you know, asterisk that because of
13 the limitations.

14 Q. I understand your position.

15 "The victim reports drinking with friends and
16 having" -- this is the third criteria.

17 "The victim reports drinking with friends and
18 having just one or two drinks, too few to account for the high
19 level of intoxication the victim experienced."

20 The victim did not report intoxication in this
21 case, correct?

22 A. Well, what I consider intoxication is she reports the issue
23 of not remembering anything else. That is a sign of
24 intoxication, in my opinion.

25 Q. So, can we put this down as a maybe?

10:25

1 A. I would, yes.

2 Q. Subject -- well, it's subject to your interpretation of her
3 history, correct?

10:25

4 A. Right. So I thought that's what you were doing, was my
5 perceptions of these.

6 Q. All right.

7 THE COURT: Yeah, I think you ought to put down
8 whatever his perception.

9 And the jury understands --

10:25

10 MR. McKINNEY: I've done that Judge. I've done that.

11 BY MR. McKINNEY:

12 Q. "She recalls feeling strange, then suddenly very drunk."

13 She's given no such history, has she?

10:25

14 A. No. But she showed that she passed out. I would say
15 that's pretty drunk. So I would say yes.

16 Q. Well, in terms of the specific inquiry that says -- I mean,
17 I'll be -- I'll be happy to put a "yes" up there, but let's
18 talk about it first.

19 A. Okay.

10:25

20 Q. All right?

21 "She recalls feeling strange."

22 Has she said that?

23 A. No. She just recalls she don't remember things. I would
24 say that's strange.

10:25

25 Q. Let's look at --

1 A. Did she say the term "strange"? No.

2 Q. Let's look at your criteria, and look at it very carefully.
3 "She recalls having a strange feeling."

4 Have you seen anywhere in any of her testimony
5 where she said she had a strange feeling?

6 A. No. I'm just interpreting the "strange" as somebody not
7 remembering anything would be strange to me.

8 Q. But I'm not asking you -- that would be your subjective
9 interpretation of her subjective report, correct?

10 A. That -- that's what -- that's what you're doing here.

11 THE COURT: What he's asked -- that's what he's been
12 asked, and that's why he's hired.

13 MR. McKINNEY: Actually, Judge, that's not what I'm
14 asking, with all due respect.

15 THE COURT: Well, you need to clarify that, because
16 that sure came across to me.

17 BY MR. McKINNEY:

18 Q. Did you see anywhere where Ms. Jones stated that she
19 herself felt strange before losing her memory?

20 A. I did not see her use the term "strange."

21 Q. All right. Did you see anywhere where Ms. Jones
22 described -- and your words are "feeling suddenly very drunk"?
23 Did you see anywhere where Ms. Jones said she felt -- suddenly
24 felt very drunk?

25 A. The term "very drunk" was not used. But again, I keep

1 saying, when you don't remember anything after taking a couple
2 of drinks, that, to me, fits "strange" and "very drunk."

3 Q. Yes, sir, I would agree with you that that is a possible
4 interpretation. But the question is: Did Ms. Jones ever
5 report any of those, that you're aware of?

6 A. Not in those terms.

7 Q. So, I'm going to put down no and yes.

8 A. I would prefer you put yes and then no, because you're
9 writing my -- my perception. So put me down first, and then
10 put your interpretation later.

11 THE COURT: Yeah, I think -- I think --

12 BY MR. McKINNEY:

13 Q. I'll do that. I'll do that.

14 THE COURT: This is losing its -- its rigor. I mean,
15 it's like coauthors who are writing to totally different
16 purposes.

17 MR. McKINNEY: Understood, Judge.

18 BY MR. McKINNEY:

19 Q. Item Number 6: "Waking up eight or more hours later" --

20 A. You missed 5. I'm sorry.

21 Q. Oh, I'm sorry. Item 5: "The victim reports being heavily
22 intoxicated very rapidly within a time period of five to 15
23 minutes."

24 Did she report that she was intoxicated or simply
25 report she has no memory?

1 A. Again, she reports that she doesn't remember anything after
2 that. To me, that is heavily intoxicated.

3 Q. All right. But again, to be clear, she does not report
4 feeling intoxicated. She doesn't report any of her feelings
5 after -- after what she says were the two sips, correct?

6 A. Correct.

7 Q. So, do you mind if I put a question mark beside your yes?
8 Would that offend you?

9 A. Well, why don't you go ahead and put no? Since you're
10 disagreeing with me up there, just go ahead and put no there.

11 Q. Okay. I'll do that.

12 Item 6: "Waking up eight or more hours later
13 uncertain about what has happened, but believing she may have
14 been raped because she's experiencing vaginal soreness or other
15 signs of sexual activity."

16 She definitely said that?

17 A. Yes.

18 Q. Being told she was given roaches, ruffies, Mexican Valium,
19 R-2, GHB or Easy Lay, she wasn't actually told that; but
20 someone mentioned it?

21 A. Correct.

22 Q. So would we call that a maybe?

23 A. Actually, with that, I just simply -- I didn't put it as --
24 you can put it as a no. She wasn't told that, but it just put
25 the issue, so there was -- as far as being told that, she

1 wasn't. So that is what I would put up there.

2 Q. Item Number 8, "The victim reports that witnesses told her
3 she suddenly appeared drunk, drowsy, dizzy, confused, with
4 impaired motor skills and impaired judgment."

5 She made no such reports, correct?

6 A. No. The only other thing that I see, is I think in the
7 investigative report, Mr. Bortz said that she was, I think his
8 term was possibly intoxicated.

9 Q. But her report is -- would be no as to her, correct?

10 A. Correct, as far as what she was told.

11 Q. "The victim reports symptoms of amnesia," that's a yes?

12 A. Correct.

13 Q. And she remembers a sequence of cameo appearances?

14 A. Yes.

15 Q. And that would be either her flashbacks or whatever?

16 A. Yes.

17 Q. So, we have yes she reports, yes here, we disagree on 4 and
18 5, a yes, two nos, two yeses?

19 A. Uh-huh.

20 Q. Correct?

21 A. Correct.

22 Q. Do you from time to time look at reports made by
23 investigating agencies and what witnesses say in those reports
24 about the victim as a part of performing your analysis as to
25 whether or not the victim was under the influence of a drug at

10:31 1 a given point in time?

2 A. Yes, sir, I do.

3 Q. And have you looked at the final report of the Department

4 of State regarding the investigation of Ms. Jones' allegations?

10:31 5 A. Yes, sir, I have looked at it.

6 Q. Have you also looked at Ms. Jones' e-mail strings on the

7 morning of July the 28th?

8 A. I have seen those in the past, yes.

9 Q. Have you examined them in any detail?

10:31 10 A. Well, I did look at them back when I first started this

11 case.

12 Q. Have you looked at them since sometime in 2010?

13 A. Yes, sir.

14 Q. And when would that have been?

10:32 15 A. I don't remember. It's been a little bit awhile ago,

16 though.

17 Q. In the last two or three weeks?

18 A. No. Probably in the last six weeks or so.

19 Q. And what was your purpose in looking at those e-mails?

10:32 20 A. Again, just reviewing back with those -- just the overall

21 case, and just looking to see if anything else popped out.

22 Q. Did you and Mr. Kelly discuss the e-mail string at any

23 time?

24 A. No, sir.

10:32 25 Q. Have you discussed the e-mail string with any of Ms. Jones'

1 attorneys?

2 A. Not that I'm aware of, no.

3 Q. Do you know, as you sit here today, or have an opinion, as
4 you sit here today, as to which date rape drug you think

5 Ms. Jones might have been given?

6 A. No, sir. With the problems with the testing, and the lack
7 of testing on some, is that I don't think anybody can tell you
8 which drug, or if it -- or which combination of drugs she may
9 have received. And that is not an uncommon situation in a date
10 rape case.

11 Q. I understand. I'm just asking if you know -- have an
12 opinion as to which drug she was given or what the dosage might
13 have been?

14 A. No.

15 Q. Do you have an opinion as to whether it was a low, a medium
16 or a high dose of a date rape drug?

17 A. You can't determine that because if alcohol was involved,
18 that would affect the actions. And so you can't determine
19 that, no, sir.

20 Q. All right. Now, in your report you noted that Rohypnol is
21 associated with amnesia?

22 A. Correct.

23 Q. You talked about GHB in your report?

24 A. Correct.

25 Q. And you did not note in your report that GHB is associated

1 with amnesia, correct?

2 A. I probably didn't. No, sir, I didn't.

3 Q. All right. Now, would that be a fatal flaw?

4 A. No, sir. Because basically, I was looking at the general
5 pharmacology, and I was providing information with regard to
6 the general -- if you notice, I didn't list every side effect
7 associated with --

8 Q. I was just asking.

9 A. Correct.

10 The point is, is that my report was my general
11 impression and giving an overview. This is -- the -- the lab
12 test -- like I said, there are plenty of medical records that
13 have errors in them and are used. The point becomes is, that
14 needs to be clarified to make a decision.

15 The issue becomes, I've got seven out of ten
16 subjective things, which gives me a passing of 70 percent on
17 "yes," in my opinion.

18 Q. Actually, technically it's seven out of nine, but -- or six
19 out of nine, but --

20 A. I was just -- let's see, you've got one, two --

21 Q. You have nine subjective elements.

22 A. -- three, four, five six, seven. That's seven out of ten
23 of these. And, then, if you -- because this is objective, that
24 would be --

25 Q. Fair enough.

1 A. -- in a test a bad question, we throw that out.

2 Q. I'm -- I'm with you. I'm -- I'm -- I'm bad on math.

3 All right. To get back to your report, your
4 report does not indicate that GHB is associated with amnesia,
5 does it?

6 A. No, sir. But we know it is. You look in the mater- -- in
7 the data. And again, we were looking at, at this particular
8 point, no -- nothing was tested with GHB. We know Rohypnol was
9 tested. And that's why I focused more on Rohypnol. And bottom
10 line is, is that the amnesia and everything is consistent with
11 all the date rape drugs.

12 Q. Let me ask you, though: Are some of the date rape drugs
13 more associated with amnesia than others?

14 A. Well, obviously, Rohypnol has been. GHB -- in fact, in any
15 lectures in GHB, we find out people wake up, and almost died
16 from GHB, and they don't believe us because they can't remember
17 that they almost died.

18 So, pretty much, if you look at all of the drugs
19 that are -- the benzodiazepines, the sleep drugs, the Rohypnol,
20 the GHB and its analogs, all of them have a very common
21 situation with potentially producing amnesia, over -- strong
22 intoxication, and the effects we've talked about.

23 MR. McKINNEY: Could I have the question read back,
24 please?

25 THE COURT: Okay. "Let me ask you, though, are some

1 of the date rape drugs more associated with amnesia than
2 others?"

3 BY MR. McKINNEY:

4 Q. Doctor, the -- the question is: Are there particular
5 types, specific types of date rape drugs that are more likely
6 or more commonly observed to produce amnesia on a consistent
7 basis than other date rape drugs?

8 A. I would say Rohypnol has a greater recognition by the
9 medical community that it can because it's been seen more. GHB
10 is hard to diagnose, and so we've not had as much
11 documentation. But GHB can do it, too. So those two would be
12 the ones that I would see.

13 Q. I understand that GHB can produce amnesia. It's been
14 observed to produce amnesia. The question I have is whether
15 GHB has been documented to consistently produce amnesia at the
16 same level or same rate that Rohypnol produces amnesia?

17 A. I'd say you can't make that -- you're -- you're asking
18 really apples and oranges, because it depends on the dose, it
19 depends on the metabolism, it depends on the -- for example, if
20 alcohol is present, it can be enhanced more if another drug is
21 present. So you can't just simply say compared to the two --
22 given equal circumstances, both can cause it. But you can't
23 say, in my opinion pharmacologically, that one causes it more
24 than the other because you can't compare them on equal -- on
25 equal fields.

1 Q. Well, I'm going to ask you a couple of more questions --

2 A. Sure.

3 Q. -- about that.

4 Rohypnol is associated with amnesia, no doubt
5 about it?

6 A. Yes, sir.

7 Q. And you're telling our jury that in your opinion, GHB is
8 associated with amnesia, but the documentation isn't nearly as
9 substantial for that proposition as it is for Rohypnol,
10 correct?

11 A. Exactly. Because here's a good case. This case is a good
12 example. You don't meas- -- you're more likely to pick up
13 Rohypnol, it stays around longer, than you are with gamma
14 hydroxybutyrate, and so that's why it's been documented more
15 with these date rape cases is because you can pick up -- it
16 stays around longer; and so, therefore, it would be more likely
17 to be detected and then be associated with it.

18 Q. Was the answer, at least the beginning, that Rohypnol is
19 documented to be associated with amnesia, and that the
20 relationship -- or the association of amnesia with GHB is not
21 well documented, but you nonetheless believe that there is an
22 association?

23 A. I would say not as well recognized. But yes, I believe
24 there's an association.

25 Q. Okay. Now, the question I have for you -- and I think I

1 asked it, but I'm not sure I got an answer, so I'll ask it
2 again.

3 Does GHB -- has it been demonstrated in the
4 documented peer reviewed literature to consistently produce
5 amnesia, or is that -- or is the amnesia that is associated
6 with GHB something that happens occasionally, but not
7 consistently?

8 A. I would say it's been documented, but as far as a dose
9 relationship, has not been established for GHB.

10 Q. And the question, Doctor, is whether amnesia has been
11 consistently associated in the literature with amnesia?

12 A. I would say yes.

13 Q. All right. And do you have any studies that you can point
14 to, as you sit here on the stand, peer reviewed studies that
15 make that association?

16 A. No, sir. I think it would be more in a series of case
17 reviews that it's -- it showed up in some of those cases.

18 Q. And a case review is a report about one person, one time?

19 A. Correct.

20 Q. And it's settled within the scientific community that case
21 reports are not a valid basis for determining a cause and
22 effect or a broad range for -- for deducing or arriving at a
23 general broad range proposition. Isn't that the case?

24 A. Not necessarily. Case reports can sometimes be stronger
25 than randomized controlled trials. When you have a challenge,

10:40 1 you give the drug, and then you remove the drug. The effect
2 goes away. You give a rechallenge.

3 So you've got a challenge, a de-challenge, and
4 you give the drug again. And what happens is, you repeat the
10:40 5 effect. That's pretty strong evidence of a cause/effect.

6 And, you know, one of the things that we've got
7 with Ms. Jones here is that there's been periods when she's
8 drank before, but there's been no evidence that I saw in her
9 medical literature, with what I reviewed, of where that she's
10:40 10 had these periods of amnesia. And so, to me, that's another
11 piece of evidence that goes into the strength of that it was a
12 drug-facilitated sexual assault.

13 Q. Let me see if I just understand -- if I understand what you
14 just said.

10:41 15 Because you've seen no evidence in the medical
16 records of Ms. Jones that she has had an alcohol-induced period
17 of amnesia, that strengthens your opinion that this was a
18 drug-related event?

19 A. Yes, sir.

10:41 20 MR. McKINNEY: What's the exhibit number?

21 BY MR. McKINNEY:

22 Q. And I guess the opposite would be true. If there was such
23 an event in Ms. Jones' history, and your opinion would be less,
24 you would have to reduce your opinion that this was a
10:41 25 drug-related event?

10:41 1 A. I still think there's strong evidence here, and the issue
2 would become is that even if there was some incidence of where
3 that there was a true period, did you see, and a long period
4 associated of amnesia that she's experienced and also the cameo
10:42 5 appearances. [sic]

6 So, it -- it would look at -- it depends on, you
7 know, did -- if a person had a blackout or just passed out,
8 that would be different than someone who had a long period of
9 amnesia.

10:42 10 Q. Right. And for example, couldn't remember whether she had
11 intercourse or not?

12 A. That could be a short period of amnesia, but not
13 necessarily drug-induced. It could be alcohol-induced.

14 Q. All right. Are you aware that Ms. Jones' OB-GYN has
10:42 15 testified before our jury?

16 A. I don't know who's testified before the jury.

17 Q. All right. Have you reviewed the records of Dr. Scott, and
18 specifically a record dated two months and ten days before
19 Ms. Jones went to Iraq?

10:42 20 A. I've looked at some records from -- and may have included
21 Dr. Scott, but I just -- I would have to look at the record.

22 Q. All right.

23 A. Or you would have to show me the record and let me see it.

24 Q. All right. And I'll do that in just a second. Well, let's
10:43 25 do it right now.

10:43 1 MR. MCKINNEY: Let's put Bortz 182 up, please.

2 THE COURT: Ladies and gentlemen, while we're doing
3 that, I just want to check if any of you are in desperate need
4 of a break. Here's -- here's my schedule for this morning. I
10:43 5 have a criminal matter at -- at 11:30. I'm going to have to
6 break for awhile. If we can make it to like 11:20, that
7 would -- 11:20 would be a good time?

8 *(Sotto voce discussion at bench with court staff)*

9 THE COURT: I need to spend a little while on that.
10:43 10 So, if we can make it to like 11:15, that would be good. Can
11 you-all do that or do you want a break right now? Raise your
12 hand if you need a break.

13 We'll keep marching. We'll keep marching.

14 MR. MCKINNEY: Let's enlarge the highlighted portion,
10:43 15 please.

16 BY MR. MCKINNEY:

17 Q. What it says here, Doctor, is that: "Patient reports
18 possible sexual intercourse with a new partner after she had
19 several drinks and passed out. Patient does not remember
10:44 20 anything."

21 Now, in addition to this record that you see
22 before you, I want you to assume that Dr. Scott has testified
23 that she actually remembers this specific visit with Ms. Jones,
24 and that Dr. Scott has testified clearly that Ms. Jones told
10:44 25 her she simply did not recall whether she had had sex or not

1 after having passed out. She just didn't know. Can you make
2 that assumption for me?

3 A. Okay.

4 Q. Now, I believe you said a moment ago that you thought that
5 Ms. Jones' history of not passing out, not having blackout
6 periods under the influence of alcohol was supportive of your
7 opinion that Ms. Jones was under the influence of a date rape
8 drug on the occasion in question. Did you not say essentially
9 that to our jury?

10 A. I did.

11 Q. And do you not see here and have you not just heard
12 evidence that directly undercuts the assumption that you are
13 making about Ms. Jones' history?

14 A. Absolutely not. What you've got here is a
15 misinterpretation. You're confusing things.

16 There's two things that you see. And this gets
17 confused a lot. You have people that pass out which just
18 become unconscious. And then you have people that are in
19 blackouts, where they're -- for example, the typical thing is
20 somebody goes and -- goes and gets drunk, and they're up on the
21 table dancing and everything like that. They don't remember
22 all of that. That is a blackout.

23 And that's what I am talking about with Ms. Jones
24 on -- in July. This is passing out. Someone just simply
25 unconsciously passes out. It would not surprise me, if you

1 were passed out, that you would not remember anything. So, you
2 can't confuse passed out with blackouts.

3 Q. Well, I'll try not to make that confusion, or I'll try not
4 to make that mistake again. We have another medical record to
5 look at.

6 A. Sure.

7 Q. Are you aware that in September of 2004 that Ms. Jones was
8 hospitalized for three- to four-day periods complaining of
9 blackouts, syncope, S-Y-N-C-O-P-E. You understand what that
10 is?

11 A. Right. But we're confusing terms again. Syncope is
12 fainting. That's blacking out. That is not a lapse in memory
13 or an amnesiac state.

14 Q. All right. Bear with me just a second.

15 MR. McKINNEY: Let's go to Bortz Exhibit 164, please.

16 BY MR. McKINNEY:

17 Q. It's your belief that -- that -- that syncope means
18 fainting?

19 A. Yes, sir. That's the scientific definition of it.

20 Q. All right.

21 A. That can occur from a drop in blood pressure.

22 MR. McKINNEY: Let's go to, I believe it's the third
23 page of the record. And let's highlight, I think it's this
24 portion. Yes, the -- the middle portion, please.

25 No, right here. Just enlarge.

10:48 1 Okay. Good enough.

2 BY MR. McKINNEY:

3 Q. Do you see right here where Ms. Jones reports blacking out
4 and passing out?

10:48 5 A. Yes, sir.

6 MR. McKINNEY: How are we coming on that, Sharon? Not
7 yet?

8 MS. CULLEN: Working on it.

9 MR. McKINNEY: All right.

10:49 10 BY MR. McKINNEY:

11 Q. We're going to forge ahead a little bit, probably come back
12 to this subject in just a minute.

13 A. Okay. I would just say that when you've got blackout and
14 passed out is what -- is consistent with what we just talked
10:49 15 about.

16 Q. All right. Is a blackout a period of amnesia? Is that
17 what you're telling us?

18 A. Well, when you say -- a blackout is a period -- if you look
19 at what they define it as, is it's almost like you're -- these
10:49 20 activities go and your brain is not making the memories. Or
21 it's made the memories and you can't recall it. Because when
22 people are blacked out, many times they are up and moving and
23 doing things, but they're still active. Passing out is when
24 you just faint, or just -- people use "blackout" and "pass out"
10:49 25 all the time interchangeably. But a true blackout is what we

1 see that's usually drug-induced. Alcohol is a good one that
2 does it. We see it with the benzodiazepines, or usually the
3 GABA type drugs.

4 THE COURT: Let me slow you up just a little bit. A
5 lot of big words and --

6 THE WITNESS: Sorry.

7 THE COURT: -- and we have to stay up with every
8 syllable. She has to stay up with every syllable you say.
9 Start over again. You were -- you were saying --

10 THE WITNESS: Are you going to tell me --

11 THE COURT: -- "A true blackout is what we see that's
12 usually drug-induced. Alcohol" --

13 THE WITNESS: And benzodiazepines or GABA acting
14 drugs, those drugs acting on the GABA receptor. That's
15 G-A-B-A.

16 BY MR. McKINNEY:

17 Q. I'm simply asking -- or I was -- I was hoping to have
18 simply asked if a blackout is synonymous, in your mind, with a
19 report of amnesia or loss of memory?

20 A. When you say a blackout, is -- in a true definition is it
21 would be a period of amnesia or loss of memory but the person
22 is still up and moving versus someone passing out and being
23 unconscious, which then they wouldn't remember.

24 Q. So, you're saying the difference between passing out and
25 blacking out is whether the person is functional versus

10:51 1 essentially asleep?

2 A. Somewhat. There's plenty of people that drink and pass out
3 but don't have blackouts. There's people that black out and
4 don't pass out.

10:51 5 Q. Okay.

6 A. I'm on a college campus and I see that all the time.

7 Q. You're lost -- I'm lost, but that's okay.

8 A note that I made during your direct examination
9 is higher doses of date rape drug-- date rape drugs are
10 associated with amnesia. Is that correct?

11 A. Correct. And that's -- that's a dose-related effect. But
12 again, that dose response curve can be shifted by the presence
13 of other drugs.

14 Q. Understand.

10:51 15 The question I have, getting back to GHB is --
16 and Rohypnol, for that matter, at lower doses are those drugs
17 therefore not associated with amnesia, or at least not to the
18 degree?

19 A. I would say you would anticipate not as much. But Rohypnol
10:52 20 would be a little bit more potent than GHB, I would say. I
21 think it's back to maybe what you were asking.

22 Q. That sort of gets back to what I was asking. Because
23 Ms. Jones reports amnesia, do you assume a higher dose of
24 whatever date rape drug she was given?

10:52 25 A. No, sir, not necessarily, simply because you have alcohol

1 there, and it may depend on how sensitive she is to those
2 particular drugs.

3 Q. Did you also testify in response to some of Mr. Kelly's
4 questions -- did you also testify in response to some of -- of
5 the questions you were asked today that -- completely lost my
6 track when Ms. Cullen gave me those pieces of paper.

7 A. Okay. Now, that may be a blackout.

8 Q. No. It's not a blackout. Well, it may have been a
9 blackout. I do -- I probably do that a lot, then. But I
10 haven't, to my knowledge, taken any drugs.

11 Oh, now I remember the question. So I didn't
12 black out. I remember the question.

13 Did you testify earlier today that under the
14 influence of a date rape drug, the person who has ingested the
15 drug can appear perfectly normal?

16 A. They can be, yes.

17 Q. Or the person might appear intoxicated?

18 A. Correct.

19 Q. Or the person might be rendered unconscious?

20 A. Again, that would be dose, metabolism, presence of other
21 drugs. All that would affect how a person may interact with
22 that.

23 Q. But so that we have, hopefully, a clear answer to the
24 question, there are a broad range of behaviors that a person
25 who has ingested a date rape drug might exhibit?

10:54 1 A. Yes, sir.

2 Q. And the -- the range of behaviors ranges from appearing

3 perfectly normal --

4 A. Correct.

10:54 5 Q. Other extreme, correct?

6 A. Correct.

7 Q. And a whole host of behaviors in the middle from acting

8 drowsy, correct?

9 A. Correct.

10:55 10 Q. Or intoxicated?

11 A. Correct. Aggravated.

12 Q. Angry? Happy?

13 A. Correct.

14 Q. Sexually uninhibited?

10:55 15 A. Correct.

16 Q. Sad?

17 A. Correct.

18 Q. All of these behaviors might occur?

19 A. Correct. And we see that with other related drugs also.

10:55 20 Q. Right. Now, if someone is described as tipsy or ditzy,

21 D-I-T-Z-Y, that would be consistent with mild to moderate

22 alcohol consumption, as well as consistent with, in your

23 opinion, ingestion of a date rape drug, correct?

24 A. That's a possibility, yes.

10:55 25 Q. Could be consistent with either one?

1 A. Correct.

2 Q. You're aware, are you not, that the various people who
3 observed Ms. Jones that evening, separate and apart from
4 Charles Bortz, describe her as ditzy and tipsy but otherwise
5 communicating in a reasonable fashion, behaving in what
6 appeared to be an appropriate fashion for the nature of the
7 social gathering, et cetera, et cetera. And it's not just one
8 witness; it's three or four witnesses who so describe
9 Ms. Jones, correct?

10 A. I don't know how many witnesses. I did see that
11 description at least in one or two witnesses.

12 Q. Now, do you discount that description?

13 A. No, sir. I basically -- you know, the issue becomes if she
14 was starting to feel the effects of alcohol, and then was given
15 a date rape drug, then you would have a much greater effect.
16 So, it's not inconsistent with my -- my opinion.

17 Q. It's also true, is it not, that your opinion depends
18 entirely on Ms. Jones' history of having blacked out, correct?

19 If that -- if that is not an accurate history,
20 then your opinions that you've expressed here today would have
21 to be withdrawn, correct?

22 A. I looked at not just amnesia, I looked at all of these
23 points. And I think, like we said, that she meets seven out of
24 nine criteria, and that includes amnesia, which is one of them.

25 Q. Well, I don't want to argue with you because every time I

1 do, I lose. But let me try, just if you don't mind.

2 To reiterate or repeat, her basic history is that
3 she took -- took two sips of a drink and has no memory
4 thereafter, correct?

5 A. Correct.

6 Q. She doesn't describe feeling intoxicated, she doesn't
7 describe any of her other feelings that appear on your
8 checklist, but you interpret her basic history of having had
9 two sips and passed out as being consistent with these other
10 factors, correct?

11 A. Yes, sir. Yes, sir.

12 Q. So it all comes down to, does it not, the validity of the
13 fundamental history that Ms. Jones gives, that being that she
14 took two drinks and has no memory thereafter? If that is not
15 the case, then all of your inferences that you draw from that
16 history would cease to exist, correct?

17 A. Well, I think it's a big part of it. But, I mean, there's
18 cameos and all these other subjective issues that we've talked
19 about. So the amnesia issue is part of it. But again, when
20 you're putting -- when you're looking at a drug effect, you --
21 you don't simply pull out each one and say, "Well, if this goes
22 away, this doesn't happen." The point is, is that the amnesia
23 fits in with a lot of these issues that are there, and it is a
24 very important part. And so, I'm not going to take a parcel
25 out and say if the amnesia goes, everything else falls.

10:59 1 Q. Well, then let's -- let's do it line by line. I hate to
2 have to go through this with you. But let's just do it line by
3 line.

4 The first item, reporting that she was under the
10:59 5 influence of a drug during the sexual assault, that wouldn't go
6 away if the amnesia went away, correct?

7 A. Correct.

8 Q. That would remain.

9 The second item is the objective item, so that's
10:59 10 not a part of our analysis, correct?

11 A. Well, actually, it is. But for what we're talking about
12 now, it's not.

13 Q. What -- what we're talking about right now --

14 A. Right.

10:59 15 Q. -- it's not part of our analysis.

16 The -- the third item, the victim reporting
17 drinking with friends, having just one or two drinks -- one or
18 two -- one or two drinks, too few to account for the high level
19 of intoxication the vic- -- the victim experienced, if we take
11:00 20 away her statement that she had two drinks and passed out,
21 we -- we have absolutely no history from her that evening as to
22 how she felt, correct?

23 A. Other than we know that Mr. Bortz made in his statement.

24 Q. Talking about what she reports here. This is -- your
11:00 25 criteria calls for the victim reporting drinking with friends

11:00 1 and having just one or two drinks.

2 A. Repeat your question, please.

3 Q. If we take away Ms. Jones' history, if we, for whatever
4 reason, find that her history is not supported by the evidence,
11:00 5 then your "yes" finding as to the victim reporting with
6 friend -- reporting drinking with friends and having just one
7 or two drinks, too few -- too few to account for the high level
8 of intoxication the victim experienced, this criteria,
9 Number 3, goes away if we lose her history of having two drinks
11:01 10 and passing out, correct?

11 A. Correct.

12 Q. Likewise, item Number 4, her report that she feel- -- felt
13 strange, and then suddenly felt drunk, if we take away her
14 history of claiming that she had two drinks and doesn't
11:01 15 remember anything, the fourth criteria also goes away, correct?

16 A. Well, if you take away any of these. If you take away her
17 history of these actions which she described, then these
18 criteria wouldn't be met.

19 Q. That's exactly what I asked you a moment ago, and that --
11:01 20 that shortens my questions significantly.

21 Sort of the punch line here, Doctor, is that your
22 opinion that Ms. Jones was under the influence of a date rape
23 drug of undetermined origin and dosage depends entirely upon
24 her subjective history, of which only she has control, that she
11:02 25 took two sips from a cup and doesn't remember anything after

11:02 1 that. If you eliminate that history from the basis for your
2 opinion, you would have to withdraw your opinion, would you
3 not?

4 A. It would modify my opinion unless there was some new
11:02 5 information that became available.

6 Q. And it would modify your opinion to the point where you
7 would not have an opinion one way or the other whether
8 Ms. Jones was under the influence of a date rape drug without
9 that essential history; isn't that so?

11:02 10 A. Whether it was Ms. Jones or any other -- any other person,
11 it would be dependent upon the subjective aspects of their --
12 of their history, yes. And that would have to be consistent
13 with the pharmacology of the drugs, which I believe exists
14 here.

11:03 15 Q. But I think in the course of that answer what you said was
16 if Ms. Jones' history does not bear out, then your fundamental
17 opinions in this case would be withdrawn, correct?

18 A. Correct. If there was not subjective history similar to
19 this, then that would modify my opinions.

11:03 20 MR. McKINNEY: May I have a moment, your Honor, to
21 check my notes and confer with counsel, and maybe a very short
22 break in which to do so? Because I think it will wrap things
23 up if I am able to do that. If you prefer not -- I mean, I
24 realize --

11:03 25 THE COURT: No, we need to take a short break.

11:03

1 MR. MCKINNEY: -- that's fine.

2 THE COURT: And I'll just have to come get you when
3 we're ready. We have -- do have one other hearing so ...

4 Okay. Would all rise?

11:04

5 MR. MCKINNEY: Well, actually, Judge, let me just --
6 rather than send the jury out and waste more of their time, let
7 me just ask around and see if --

8 THE COURT: Okay. Sure.

9 BY MR. MCKINNEY:

11:04

10 Q. On the objective testing angle -- let me get to that.

11 MR. MCKINNEY: If we could put up -- I hate it when
12 this happens. Oh, I know which one it is. It's the Joint 105,
13 please.

14 And go, please, to the next page.

11:05

15 Next page.

16 Well, that's not it either. Go to the next page.

17 Next, next. There we go. Highlight this entry
18 right here, please (indicating).

19 BY MR. MCKINNEY:

11:05

20 Q. Are you able to interpreter this lower line right here?

21 A. You talking about the urine tox.

22 Q. Yes.

23 A. It says: "Urine tox negative."

24 Q. Right. That would relate back to the Landstuhl record?

11:06

25 A. Correct.

11:06 1 Q. The doctor interpreted the record as showing no Rohypnol in
2 the system?

3 A. Correct.

4 Q. Now, is it common or uncommon for a person, after having --
11:06 5 after coming out from under the effect of a -- of a date rape
6 drug, to tell one version of the events, and then -- to the
7 first person she speaks to, then to tell another version of the
8 events, but essentially identical versions of the events, to
9 the next two people she speaks to, and then thereafter have a
11:06 10 substantially different version of events from the night
11 before? Is that common or uncommon?

12 A. That's actually fairly recognized. If you look at the
13 training manuals, one of the issues that comes into play is
14 when the person is -- there's several things that happen after
11:07 15 exposure to a date rape drug. There's -- there can be shame,
16 embarrassment. The issue of how the questions are framed, who
17 the person is, those are all identified as issues that can show
18 some inconsistencies between the overall story and also trying
19 to fill those in. That's been recognized and given that, and
11:07 20 that's -- and law enforcement is aware of that.

21 Q. Yes, sir.

22 And you referred to a training manual. And with
23 respect -- when I ask you a question about your expertise, I'm
24 actually asking it based on the actual scientific authorities,
11:07 25 the published literature, the peer reviewed literature.

11:07 1 Is there peer reviewed literature that stands for
2 the proposition that people under the date rape drug will -- in
3 the aftermath, after they've woken up, had several hours to
4 clear their head, will report three substantially different
11:08 5 version -- versions of the events leading up to their period of
6 unconsciousness? Is that documented in the literature?

7 A. I'm not aware of it specifically being documented in the
8 literature for the date rape drugs from that aspect.

9 Q. And that -- that was my question.

11:08 10 A. Right. But we have seen it -- similar type situation with
11 anesthetics and sedative hypnotics, that there's more
12 literature on that, where that there may be confusion, and that
13 sort of thing. But for Rohypnol and for GHB, I'm not aware of
14 a paper that specifically says that, other than it is
11:08 15 recognized by the people that work with this all the time.

16 Q. I guess the last question I want to ask you is back to your
17 diagnostic criteria, item Number 6, where it's -- it's
18 predicated -- the inquiry is predicated on waking up eight or
19 more hours later, uncertain about what happened, but believing
11:09 20 she may have been raped because, et cetera, et cetera. And I
21 want to focus on the predicate: Waking up eight or more hours
22 later. Why do you include that specific sleep period in your
23 criteria?

24 A. Well, that criteria was actually from the training manuals
11:09 25 which I was using. And so, obviously, that would vary,

1 depending on the dose. It could vary on how tired or ill or
2 whatever that individual was. And so, generally you're looking
3 at a period of time that can occur when the person wakes up
4 several hours later and can't figure out what's happened.

5 Q. Let me ask you this: Are these your criteria or someone
6 else's criteria?

7 A. These are the criteria based on the pharmacology. And --
8 and these are also from the training manual. And it's based
9 upon pharmacological principles.

10 Q. All right. But I'm -- I'm saying, did you originate these
11 criteria or did you lift them from peer reviewed literature?

12 A. Actually, this was lifted from the training manual, with
13 the pharmacology attached to it.

14 Q. Is there peer reviewed literature that supports and
15 authorizes and endorses these criteria as a scientific -- as a
16 recognized scientific method for determining whether or not
17 someone is or is not under the influence of a date rape drug?

18 A. The -- these criteria are taken from several references of
19 peer reviewed material and summarized with this. And they're
20 consistent with the pharmacology.

21 Q. And with all due respect, in case this is something we need
22 to take up later, is there a peer reviewed article anywhere
23 that specifically addresses these ten criteria that you used in
24 your report, and has stated that these ten criteria are
25 scientifically valid -- are a scientifically valid means of

1 determining whether or not someone is or is not under the
2 influence of a date rape drug?

3 A. These criteria basically are -- are based upon the science
4 coming from a number of sources, which includes peer reviewed
5 material, the pharmacology, observations of law enforcement.
6 And these have been summarized as these would be consistent
7 with a date rape drug. These are supported by the mechanism of
8 action of these drugs, as far as the therapeutics and
9 toxicology, which is available in most pharmacological
10 textbooks.

11 Q. I understand your answer.

12 What I'm asking is, has another toxicologist or
13 pharmacologist, subject to peer review by other pharmacologists
14 and toxicologists, looked at your list, analyzed it, tested it,
15 validated it, and reported that your list is, in fact, a
16 scientifically reliable and valid method for determining
17 whether or not someone is or is not under the influence of a
18 date rape drug?

19 A. As someone looks specifically at each of this criteria in
20 this ten, I would say individually, and it's a composite like
21 we do with a lot of things. We -- when we're dealing with
22 drugs like this, when we're dealing with drugs that are used
23 for crimes, the point is, we're not going to have the
24 scientific rigid studies that you would have if you're going to
25 put a drug out for people to take on an everyday basis. So

11:12 1 what you do is, you take the pharmacology of the drugs, you
2 take the observations of people that have seen this, you take
3 the case reports, and you take all of that and you say, "This
4 is consistent," and that is a scientific method of putting
11:13 5 things together.

6 And so, in answer to your question is yes, I
7 believe that when you take the composite of where all this has
8 come from, it is rigorous and scientifically valid.

9 Q. And with all due respect, Doctor, I'm going to have to
11:13 10 object to your answer as not responsive.

11 MR. McKINNEY: Your Honor, this is a Daubert pointed
12 question. It is a requirement of the law that a -- an
13 expert's, his program or his methods --

14 THE COURT: Yeah. Yeah, I understand.

11:13 15 MR. McKINNEY: -- have to be peer reviewed and
16 recognized as scientifically valid.

17 THE COURT: Dr. Tackett's response is that it's taken
18 from many sources, some of which have been peer reviewed.
19 That's -- that's -- that's not outside the bounds of --

11:13 20 MR. McKINNEY: But -- but, Judge, I'm --

21 THE COURT: -- expert testimony.

22 MR. McKINNEY: -- with -- with respect, I'm entitled
23 to a direct answer to the question as to whether or not there
24 is actually even one person in Dr. Jones' [sic] discipline --
11:14 25 Dr. --

11:14 1 THE COURT: Tackett.

2 MR. McKINNEY: -- Dr. Tackett's dis- -- his discipline
3 that has independently tested and validated this method -- this
4 method.

11:14 5 THE COURT: Well, implicit in his answer is -- is that
6 not -- not the entire list, but parts of it. And --

7 Is that fair?

8 THE WITNESS: I think that's exactly it. It's one of
9 the things where that, when you -- when you look at -- when you
11:14 10 look at the scientific method, especially when you're going
11 into new areas, you have to pull from various sources. And
12 that's exactly what this has been done -- what -- what has been
13 done. You look at each one of those things up there. And what
14 it is, it's based on the pharmacology of the drug and the
11:14 15 observations seen in case reports.

16 So, if you were to go peruse the literature --
17 which I have done -- you would find that that -- those -- there
18 are components of that.

19 Now, the place where that has been sort of
11:15 20 summarized is actually in this training manual,
21 Drug-Facilitated Sexual Assault, which is provided to people on
22 how to recognize these actions. And it explicitly says that a
23 pharmacologist and toxicologist is necessary to do that.

24 And so, Judge, the way you put it is exactly
11:15 25 right. It's pulling from all these disciplines, which is the

11:15 1 scientific method. And it is taking my 30 years of experience
2 and basically how I know these drugs work and -- and relating
3 them here. So, I think it is a scientific method, and it is
4 validated by the mechanism of action of these drugs. And so --
11:15 5 and again, you're pulling from a number of disciplines.

6 THE COURT: I really think this is an issue, ladies
7 and gentlemen -- we -- we talked about expert witnesses before.
8 Do you remember that?

9 With an expert witness or a fact witness, it's in
11:15 10 your hands. It would be totally improper of me to keep the
11 testimony out. But you have to decide how much weight to give
12 any witness' testimony. And good lawyers like we have here
13 will -- will walk the witness through each aspect of their
14 opinion, and then you'll have to decide how it fits in with the
11:16 15 rest of the evidence, what -- what kind of expertise the
16 witness brought to the -- to the inquiry, whether they're
17 inconsistent opinions from other experts.

18 Does everybody understand what we're talking
19 about?

11:16 20 Okay. Would this be a good time for a break? Or
21 you still have more questions?

22 MR. McKINNEY: I have one or two more.

23 THE COURT: Okay. All right.

24 BY MR. McKINNEY:

11:16 25 Q. I think I'm asking a simple question, but apparently I'm

1 not because I get a long answer. I'm going to try it one more
2 time and a little bit different -- from a little bit different
3 approach.

4 Your -- your list of ten items has nine
5 subjective components, all of which come from -- either
6 directly from the victim or, in one instance, from witnesses,
7 correct?

8 A. Correct.

9 Q. And is there a peer reviewed document anywhere that says
10 that the presence of a date rape drug can be scientifically and
11 reliably determined based on nine subjective self-reported --
12 or eight subjective self-reported criteria?

13 Has anyone ever said in writing -- besides you in
14 a courtroom, has anyone ever said in writing, and subject to
15 peer review, that the patient -- or the victim's own reporting
16 is a scientific -- scientifically valid and recognized basis
17 for determining whether or not a drug is in someone's system?

18 A. And I would answer to you the same thing is, if you look --
19 the answer is yes. When you look at --

20 Q. Can you tell me the name of the article?

21 THE COURT: Let him finish.

22 MR. McKINNEY: Well, Judge, with all due respect, I'm
23 asking if there's one article out there anywhere. He has said
24 yes. I would really like to know the name of that article,
25 because I'm quite confident it does not exist and --

1 THE COURT: Okay. I don't want you testifying. I
2 think the question has been asked and the answer has been
3 given. And he's saying that -- that aspects of the list have
4 been subject to peer review, and other aspects have not. But
5 have, likewise, been compiled by a -- a legitimate, trustworthy
6 scientific method.

7 I -- I mean, I -- I don't -- peer review in
8 the -- in any science is -- is -- is always going to be behind
9 what's happening at the frontiers of science. And I -- I don't
10 know that we're benefiting anybody by continuing to go over
11 this.

12 But let me -- I'll let you finish your answer.

13 THE WITNESS: Well, when you're saying, is anybody --
14 that the -- like I said, where have these -- these ten criteria
15 been published? It's in the National Center for Women and
16 Policing. It's supported by a grant. And if you look at who's
17 on there, this is drug-facilitated sexual assault.

18 If you go to each of those ten criteria -- for
19 example, take Rohypnol or GHB. Go to a good toxicology or
20 pharmacology book, go to -- and I didn't bring my references,
21 but there's several references that talk about all of these
22 effects -- amnesia. It's subjective. It's listed in that
23 information.

24 Part of what I do as a pharmacologist is take
25 information from various sources and interpret it and put it

1 forward.

2 So, is there peer review for aspects of this?

3 Yes.

4 Is this documented anywhere? It's in a
5 Drug-Facilitated Sexual Assault training man- --

6 THE COURT: Manual.

7 THE WITNESS: -- manual -- excuse me.

8 Thank you.

9 -- with these ten points. And if you look at --
10 this includes senior attorneys, it includes attorney generals,
11 it includes pharmacologists and toxicologists. I think it's
12 pretty good company that says these are good criteria. And
13 it's based upon basic pharmacology that's in the peer
14 literature, as well as in textbooks.

15 BY MR. McKINNEY:

16 Q. I understand.

17 THE COURT: Yeah, let's move on. Let's move on.

18 MR. McKINNEY: Understood, Judge.

19 BY MR. McKINNEY:

20 Q. How many witnesses that evening describe Ms. Jones as being
21 essentially normal and perfectly ordinary in how she conducted
22 herself?

23 A. I don't remember off the top of my head.

24 Q. At least four?

25 A. Again, I just don't remember.

11:20 1 Q. Did you see where Tyler Schmidt made that report to the
2 Department of -- of State?

3 A. Again, I don't remember the exact names. I know that there
4 were a couple of witnesses that did it, but I don't know the
11:20 5 exact number.

6 Q. Greg Soriano?

7 A. Again, don't remember the name right off the top of the
8 bat.

9 Q. Genaro Castillo?

11:21 10 A. I remember the name.

11 Q. Matt Ryan?

12 A. I remember the name, yes.

13 Q. Do you prefer Ms. Jones' testimony over the statements to
14 the Department of State of these other witnesses?

11:21 15 MR. KELLY: Your Honor --

16 BY MR. McKINNEY:

17 Q. Are you doing that as a part of your analysis?

18 MR. KELLY: Your Honor, we had a conversation
19 yesterday about the hearsay within hearsay in the reports, and
11:21 20 Mr. McKinney knows that. He's -- he's asking these questions
21 out of desperation because he doesn't like the answer.

22 THE COURT: No, let's not go into that.

23 MR. McKINNEY: It's not desperation. I'm asking
24 the -- the expert whether he's preferring one person's account
11:21 25 of the incidents over another. That's -- I'm allowed to ask

11:21 1 that question.

2 MR. KELLY: No, not on -- not when it's hearsay
3 within -- based on hearsay within hearsay, which the -- the
4 Court already ruled upon.

11:21 5 THE COURT: Okay. All right. Wait, wait.

6 MR. McKINNEY: He's read it, he's looked at it, and he
7 said this is the kind of information that he relies upon, which
8 are statements in reports. It's what experts do.

9 THE COURT: Well, but I don't think -- I don't think
11:22 10 it's a question of preferring one witness over another. It's a
11 question of drawing from all the reports, drawing from every
12 source a -- a rounded view of what Ms. Jones' behavior was --
13 was like. But, anyway, I'll -- I'll let -- I'll let
14 Dr. Tackett answer the question.

11:22 15 MR. McKINNEY: I'll ask the question a different way,
16 if it helps.

17 THE COURT: Okay.

18 BY MR. McKINNEY:

19 Q. If you look at the statements of these other individuals
11:22 20 who I have identified -- that you have reviewed, correct?

21 A. Correct.

22 Q. And which you would customarily review in arriving at your
23 opinions in a case like this --

24 A. Correct.

11:22 25 Q. -- correct?

1 Each of those individuals describes a young woman
2 who does not appear to be under the influence of -- to be
3 noticeably under the influence of any drug except perhaps
4 mildly tipsy or ditzy, correct?

5 A. On those witnesses, yes.

6 MR. MCKINNEY: That's all I have. Thank you.

7 THE COURT: Yeah, we'll take a break. And I'll --
8 we'll have to come get you when we're done.

9 Would all rise for the jury, please?

10 *(Jury not present)*

11 THE COURT: Okay. All right.

12 MR. KELLY: I may not even get any opposition on this
13 at this point, your Honor. But the first time that he went
14 through the list of criteria he put the acid on the hinges.
15 The second time he lit the dynamite under --

16 THE COURT: I know. Is that the same list we were
17 talking about earlier?

18 MR. KELLY: Yes. He read this list.

19 THE COURT: Just a second. No. I have a different
20 question. I think Mr. McKinney's view is that's a different
21 list from the one he was talking about.

22 MR. KELLY: I would beg the Court to look back at the
23 testimony and read what's on this list, because it is certainly
24 paraphrased but the identical list that he just read from.

25 MR. MCKINNEY: Your list is paraphrased.

1 I need to ask this witness a couple of questions
2 outside the presence of the jury, your Honor.

3 I'm sorry. I have to make a Daubert record here.
4 This witness' testimony does not pass Daubert muster under --
5 by any stretch of the imagination. I need to ask --

6 THE COURT: I really disagree with you on that. I
7 mean, he has talked about pharmacological issues, he has long
8 history in pharmacology and I think he has pretty well steered
9 clear of questions that are not pharmacological.

10 MR. McKINNEY: If I may propound a question or to two
11 to the witness outside the jury's presence, I would like to
12 make my record.

13 THE COURT: To what point? What are the questions?

14 MR. McKINNEY: I want to establish that this
15 investigative manual that he has referred to repeatedly in a
16 self-bolstering manner is not a learned treatise recognized in
17 the scientific community of pharmacology and toxicology.

18 MR. KELLY: Your Honor --

19 THE COURT: I think he's essentially answered that
20 question. I'm not going to allow that.

21 MR. McKINNEY: Well, Judge, we don't know what the
22 answer is. It's not a recog- -- it can't be a recognized
23 treatise. A, it's not published; B, it's not peer reviewed.

24 THE COURT: He never claimed it's peer reviewed.

25 MR. McKINNEY: And I wish to establish that for the

1 record because it may become important on appeal.

2 MR. KELLY: Yes, your Honor, if I may on that very
3 issue, although I disagree with the original ruling, the Court
4 disallowed my going into those ten criteria from that document.
5 Mr. McKinney asked the -- went through those ten criteria three
6 different times. He opened the door, he got what he asked for,
7 and now he wants to undo it. He asked for this, Judge. He
8 asked for it after having beaten me in the motion to keep it
9 out.

10 THE COURT: My question is at our bench conference it
11 was suggested that the list that had been previously tendered
12 by Dr. Tackett was inconsistent with the list that was being
13 tendered in this court.

14 MR. KELLY: And it was not, your Honor. In fact, I
15 have the list in front of me and the Court has the list --

16 MR. McKINNEY: Excuse me --

17 THE COURT: Let him finish. I'll come to you next,
18 Mr. McKinney.

19 MR. McKINNEY: Yes, sir.

20 MR. KELLY: The Court has the list --

21 THE COURT: Yeah, I do.

22 MR. KELLY: And if you would like, your Honor, I will
23 read --

24 THE COURT: No, I don't. I would not like that.

25 Okay, Mr. McKinney. Your response?

11:26 1 MR. MCKINNEY: What I asked the witness after showing
2 him his report is whether the criteria, as identified in his
3 report, were the criteria that he uses for determining whether
4 or not there was a drug present in an alleged victim. And he
11:27 5 told me that those are the criteria he uses for determining
6 whether or not a drug is present.

7 The demonstrative aid that you have there leaves
8 out important components of what appears in the report. It
9 recasts those components in an adversarial fashion. For
11:27 10 example, it states that there is physical evidence of
11 intercourse or whatever, that's beyond the doctor's expertise.

12 And it's captioned not as the criteria for
13 determining the existence of a drug in a victim but rather
14 whether there was a drug facilitated sexual assault. And the
11:28 15 two are entirely different. This witness is only qualified to
16 opine on whether or not a drug was present.

17 THE COURT: Well, what it says is -- it doesn't say --
18 it says, "sexual/vaginal soreness and signs of sexual activity
19 without memory." And that's taken from other reports. He
11:28 20 didn't offer himself as an expert on whether sexual assault had
21 taken place.

22 Let me have a word with my colleagues.

23 MR. KELLY: Your Honor, if I may before you do, I'm
24 happy to hand the Court, so it doesn't have to all be
11:28 25 transcribed, a copy of the report so that you can compare and

1 see if that in fact is a fair summary that you're holding in
2 your hand.

3 MS. VORPAHL: I don't care if you ask him about his
4 report.

5 THE COURT: That is Dr. Tackett's report?

6 MR. KELLY: This is the ten items from Dr. Tackett's
7 report I have the Court can compare.

8 MS. CATES: Your Honor, can I say just one thing? I
9 do think it misrepresents the ten factors in part because the
10 factors make it clear that it's the victim's report; and that
11 does not say that.

12 MR. KELLY: Your Honor, Dr. Tackett reviewed the
13 document in your hand and it is his testimony that that is an
14 accurate representation of his testimony. But I am happy to
15 provide the Court --

16 THE COURT: Give it to Mrs. Loewe.

17 MR. KELLY: -- so you don't have to make a guess.

18 THE COURT: Give it to Mrs. Loewe.

19 *(Discussion off the record)*

20 THE COURT: This list, I think it has to come in now.
21 It -- I was prepared to allow your asking questions about it,
22 but it wasn't just you asked questions. You put it on the
23 board and then you tried to put it in answers really different
24 from what were -- what is on here.

25 MR. McKINNEY: Judge, I have no objection to him using

11:33 1 the criteria directly out of his letter, in his report. Those
2 are not the criteria that are within his report. And the
3 caption at the top is definitely not what the witness testified
4 to nor is it what the Court ruled the witness was permitted to
11:33 5 testify to.

6 What I specifically established with this witness
7 is that the criteria in his letter are the criteria for
8 determining the presence of a drug in a person at a particular
9 time, which is the area of testimony you said this witness can
11:34 10 address.

11 THE COURT: Dr. Tackett, the title here "Ten Criteria
12 for Drug-Facilitated Sexual Assault," is that one that and on
13 professional level you're comfortable with or is that
14 misleading.

11:34 15 THE WITNESS: That's fine with me. The bottom line is
16 that -- you know, when you look at it, this is all -- it's as
17 you said, Judge, is that this comes from a number of sources.
18 And, so, these are things are consistent with drug facilitated
19 rape. And, so, the ten criteria doesn't mean that they have to
11:34 20 have all ten met. It's just ten criteria that are there. And
21 that's the number, and I'm comfortable with that.

22 THE COURT: I'm going to allow it, and let's move on
23 to something else.

24 Does anybody have anything else while the jury
11:34 25 out?

11:34 1 MR. KELLY: Just because I don't want to step on
2 anything, because you allowed it, your Honor, we have a
3 PowerPoint presentation with the exact same verbiage. It's
4 just being presented in a slightly different way, is how I
11:34 5 would like to present it to it jury.

6 MR. MCKINNEY: I would like to see the Power Point.

7 MR. KELLY: I thought we did already.

8 THE COURT: Well, you guys look at the PowerPoint.
9 I'm going to turn to my 11:30 hearing.

10 *(Recess was taken from 11:34 a.m. to 11:56 a.m.)*

11 *(Jury present)*

12 THE COURT: Ladies and gentlemen, please be seated.

13 Okay. Your inquiry.

14 **CROSS-EXAMINATION**

11:56 15 BY MS. CATES:

16 Q. Hi, Dr. Tackett.

17 A. How are you?

18 Q. I'm good. I'm Susan Cates, and I represent KBR. We met at
19 your deposition, actually.

11:56 20 A. Yes.

21 Q. I have a few follow-up questions for you.

22 A. Okay.

23 MS. CATES: If you'll pull up Joint 105.

24 THE WITNESS: Okay. You'll have to -- oh, you're
11:56 25 talking to them, sorry.

11:56

1 BY MS. CATES:

2 Q. Oh, yeah. It will be on your screen.

3 MS. CATES: Will you go to the third page?

4 BY MS. CATES:

11:56

5 Q. Have you seen the documents from the army hospital in Iraq?

6 A. Are you talking about -- I mean, I've seen this that you're
7 talking about here, yes.

8 Q. And at the top it says "Jamie Jones"?

9 A. Correct.

11:56

10 Q. And the doctor is Dr. Schulz?

11 A. Correct.

12 Q. And that's the doctor that did Jamie's rape kit
13 examination, correct?

14 A. Yes, ma'am.

11:56

15 Q. And what is the date listed?

16 A. That's July 28th, '05.

17 Q. And these are the results from the army hospital. If
18 you'll look down a little at the drug urine test --

19 MS. CATES: If you could highlight that?

11:57

20 BY MS. CATES:

21 Q. The urine drug screen results are all negative?

22 A. Correct.

23 Q. And this would demonstrate that the results were -- or the
24 test was run on July 28th?

11:57

25 A. Well, this is the date that the -- I mean, the test could

11:57 1 have been run -- this doesn't exclude if the test was run on
2 the 27th, let's put it that way. This is the date of the 28th,
3 and it's reporting those results, but that doesn't necessarily
4 mean the tests were run on that date.

11:57 5 Q. But it is a document that shows that -- it does say the
6 28th?

7 A. Says the 28th. And it says some results that reported on
8 the 28th.

9 Q. Well, I don't think it says that they were actually
11:57 10 reported on the 28th.

11 A. Well, it's got the date of the document on the 28th, and
12 that's when it was filled out.

13 Q. And it could have been the date that the evidence was
14 collected.

11:58 15 A. That's a possibility.

16 Q. It is possible.

17 So, if the jury decides to rely on the lab
18 reports in this case, from the army hospital, they will
19 disagree with your report, correct?

11:58 20 A. In what way?

21 Q. You've said that the lab results don't prove that she
22 wasn't drugged. And if the jury disagrees with that and relies
23 on those lab reports that are negative, then they will disagree
24 with your conclusion.

11:58 25 A. Not necessarily. The point is, first of all, look at this

1 group that you've got on here. There's a urine drug screen and
2 there's -- nowhere does it list, that I see, the Rohypnol test.

3 Q. You testified that Rohypnol was a -- I'm going to mess up
4 this word.

5 A. Benzodiazepine.

6 Q. Yes.

7 A. It's not included in the benzodiazepine screen. If it was,
8 if you go to the -- if you want to put up the other document
9 that has the test, you will notice they have benzodiazepine
10 listed up, and it says, "None detected." But then they run a
11 separate screen for the flunitrazepam, which is Rohypnol.

12 MS. CATES: Let's go ahead and pull up that exhibit.
13 It's B73.

14 BY MS. CATES:

15 Q. So, on the second page is --

16 A. Look at the second column there.

17 Q. Right. The benzo- -- that one.

18 A. The benzodiaze- --

19 Q. Thank you.

20 And that was negative?

21 A. Correct.

22 Q. And the cocaine is negative, the opiates are negative?

23 A. Correct.

24 Q. THC is negative?

25 A. Correct.

11:59

1 Q. Methadone was negative?

2 A. Correct.

3 Q. Amphetamines was negative?

4 A. Correct.

11:59

5 Q. Barb was negative?

6 A. Barbiturates.

7 Q. Thank you.

8 And on the next page, methamphetamine was
9 negative, correct?

11:59

10 A. Correct.

11 Q. And then flunitra- -- I can't --

12 A. Flunitrazepam.

13 Q. Thank you.

14 -- was negative?

11:59

15 A. Right. And, so, on the test -- on the first figure you
16 showed me, if we could go back to that document --

17 Q. Well, I want to look at this document.

18 A. Okay.

19 Q. The flunitrazepam, that's the Rohypnol, correct?

12:00

20 A. Correct.

21 Q. And it shows it's negative?

22 A. Right.

23 Q. And if the jury decides that this report was taken -- that
24 the sample was taken and tested on the 28th or after, then
12:00 25 they're going to disagree with your conclusions in this case.

12:00 1 A. But remember -- well, if the jury decides that there's no,
2 they would disagree with my conclusions.

3 But remember, there's two issues here. One, not
4 all date rape drugs are tested. GHB wasn't tested. And they
12:00 5 even didn't test alcohol. And two is, remember that the
6 flunitrazepam, that's a urine test.

7 And, so, we know that Ms. Jones urinated prior.
8 So, that could be below the level of detection. So, it's not
9 an uncommon thing in date rape cases that what may actually
12:00 10 happen is you may get a negative result.

11 And the question is also, this is a screen, it's
12 not an HPLT -- or excuse me -- a GC test, which is more
13 sensitive. So, it could be that she's below the level. The
14 test says it's a negative screen.

12:01 15 Q. Doesn't that contradict your testimony from this morning
16 that it would test positive for up to 24 hours?

17 A. I said "in some people." When you say "up to 24 hours," I
18 didn't say absolutely up to 24 hours. Depends on her
19 metabolism, depends on the dose that she got, depends on --

12:01 20 THE COURT: Twenty-four hours is the maximum, then;
21 not a minimum?

22 THE WITNESS: Rohypnol can go 24 to 72 hours.

23 THE COURT: Okay.

24 THE WITNESS: So, yes, that's a maximum. That's a
12:01 25 good way to put it.

1 So, the point becomes is that the urine test --
2 and notice it says, again, collected on July 27th. That test
3 basically says non-detected. But again, that's assuming that
4 she did get Rohypnol and didn't get another drug. And it's --
5 also, we don't have a number of other variables which could
6 occur.

7 BY MS. CATES:

8 Q. If you'll try and just answer my question, because you got
9 way off topic.

10 THE COURT: Now, we don't need these comments about
11 whether somebody is or isn't responsive. He has taken an oath
12 to tell the whole truth, and that's -- I personally thought his
13 answer was responsive.

14 MS. CATES: I'm sorry, your Honor.

15 BY MS. CATES:

16 Q. Then I may have misunderstood. So, if I could get a clear
17 answer to my question, which may not be great; but is it that
18 Rohypnol would be detected generally 24 to 72 hours? Is that
19 what you said?

20 A. Up to.

21 Q. Up to 72 hours?

22 A. Correct.

23 Q. And these tests were done within 24 hours?

24 A. Correct.

25 Q. Thank you so much.

1 If the jury decides not to accept Jones'
2 subjective story that you were told through her attorneys, that
3 she had two sips of a drink and then remembers nothing until
4 the next day, they will also reject your opinion. Is that
5 correct?

6 A. I think you're asking me to make an opinion for these
7 jurors and what they're going to do. I think that it's up to
8 them to decide the evidence. I mean, I've given my opinions
9 and the basis of my opinions, and the point becomes is that I
10 would assume in making this -- making their decision it would
11 encompass my testimony as well as all the other witnesses.

12 So, for you to ask me if they reject my opinion
13 or accept my opinion, I think, again, you're taking and saying
14 just my testimony. This case involves a lot of testimony. And
15 I think this jury is going to be responsible for looking at all
16 the evidence, not just my information.

17 Q. I definitely agree that the jury will be looking at all the
18 evidence. But key to your opinions and testimony today is
19 Jones' subjective story that she had two sips of a drink and
20 doesn't remember anything else. Is that true?

21 A. Correct.

22 Q. Thank you.

23 THE COURT: Okay. Redirect?

24 MR. KELLY: Yes, your Honor.

25 ///

REDIRECT EXAMINATION

BY MR. KELLY:

Q. I know you're getting tired of looking at Bortz 72, Doctor; but I'm going to put it up one more time, if we may.

The 27th of July at 9:00 o'clock is mentioned more than once, isn't it?

A. Yes, sir.

Q. What does that tell you?

A. Well, I mean, every drug screen -- these drug screens are done -- specifically they can be individually or they can be done as a panel. But on each one of them it says that the drug screen was collected at 9:00 o'clock on July 27th.

Q. And again, GHB was not tested for?

A. Correct.

Q. So, the jury could actually believe that this was just a medical error and that there was no Rohypnol and that Jamie Jones was drugged with a date rape drug, couldn't they?

A. It's possible.

Q. Doctor, you mentioned that -- earlier in your cross-examination, that sometimes these -- these date rape drugs can have effects similar to Ambien. Is that right?

A. Correct.

Q. And I think you talked about peer reviews with respect to Ambien and amnesia?

A. Correct.

12:04 1 Q. Can you tell the jury what you meant by that?

2 A. Ambien -- as I mentioned earlier this morning, the main
3 thing is, is Ambien is a sleep type drug. Rohypnol is used for
4 sleep. And back in, I think it was 2007, there was a lot of
12:05 5 information that came out. The FDA put a warning out that
6 people may be subject to sleep driving, actually sleep sex,
7 sleep texting, sleep phoning, where that they don't know what's
8 going on.

9 And, for example, we would find individuals --
12:05 10 I'm going to tell this story. My wife is going to get mad.
11 But she takes Ambien and has sleep eating. And she gets up in
12 the middle of the night; and she will eat an entire bowl of
13 pudding and not know about it, wake up the next morning and she
14 doesn't remember anything about it. That's sort of what this
12:05 15 is.

16 And, so, it is peer reviewed with regard to the
17 standpoint that the FDA came out and put information out that
18 said this is a potential side effect of these type of drugs.

19 And the FDA would not put a warning out on
12:05 20 Rohypnol because the FDA does not approve Rohypnol. Nor did
21 the FDA approve GHB in the format, and it wasn't approved at
22 that particular time.

23 Q. Doctor, the chart next to you that there was some fun had
24 over, I guess, as it was being created, you were discussing ten
12:06 25 criteria that you use. And I guess the first question I have

1 for you is what are those ten criteria for.

2 A. This is -- in looking at what these drugs can do and trying
3 to decide -- I mean, for different drugs we may say what are
4 we -- how would we know if this person is under the influence
5 of this drug or did this drug produce an effect.

6 And these ten criteria look at things that have
7 been observed with drug-facilitated sexual assault. And, so,
8 what these criteria are, are things that would be consistent
9 with drug-facilitated sexual assault.

10 Q. And, Doctor, rather than my writing or any lawyer writing,
11 have you assisted with creating your own chart of these
12 documents and how they relate to this case?

13 A. Yes, sir. In fact, what I gave you was, I took the ten
14 criteria that we read through here and they're paraphrased
15 basically just to fit on a PowerPoint slide.

16 Q. Okay. So, I want to talk about the first one up there,
17 which is, "The victim reports being drugged."

18 And in this case, is that one present in Jamie's
19 case?

20 A. Yes.

21 Q. Now, that's been identified as a subjective finding. In
22 addition, to Ms. Jones herself stating that, have you seen that
23 anywhere else, in any medical records, anything like that, that
24 you reviewed?

25 A. I mean, it was in the initial medical records, I think,

12:07 1 that Dr. Schulz had, in which she took the history.

2 I go to Mr. Bortz' testimony. He said that she
3 was -- I forget the exact term -- but "potentially impaired," I
4 believe was the term he used. And, so, that would corroborate
12:07 5 with what she said.

6 Q. You also mentioned that, with respect to the positive
7 toxicological test, that there was not one; but you had some
8 explanation?

9 A. The point is, is with a positive toxicology test, it has --
12:08 10 it's "none detected," which means it's below the level of
11 detection. And with a toxicol- -- just like with all of these
12 drugs, when you have these toxicology tests, the point
13 becomes -- is you have to look at the overall nature of the
14 test.

12:08 15 This was a screen. There's a question of whether
16 the screen -- you know, whether the test actually occurred or
17 is collected on the 27th, if you believe the medical records
18 verbatim is what they are. If you decide not to believe it, it
19 was just a medical error, then there's an error in the chart.
12:08 20 But it's a urine test. It doesn't test for all the date rape
21 drugs.

22 The FBI report said that they prefer both blood
23 and urine. That always gives us a two-tier test. The other
24 thing is, is that GHB and ethanol was not tested for. Those
12:08 25 are usually out of the system pretty quick, but you can

1 sometimes pick those up on blood and urine.

2 So, but when I say "bad testing," the issue is
3 that there was some holes in this testing. The other thing is
4 that Ms. Jones, we know, went to the bathroom at least once
5 before giving the drug test. So, if her bladder was full and
6 basically she emptied half of it, that would empty half of the
7 drug that was there. If she emptied her bladder completely,
8 then there may just be a small residual, because the drug -- I
9 mean, your bladder is basically a reservoir. And as the drug
10 is being metabolized, as it gets out of your system, it goes to
11 your bladder, which is holding tank. And basically, if you
12 empty half the holding tank, you got half the drug. If you
13 empty all of the holding tank, then the majority of the drug
14 may be where you're below the level.

15 As I said earlier this morning, one of the common
16 ways of beating drug tests is you drink a lot of water and go
17 to the bathroom a lot so that you get it out of your system.

18 The other issue that comes into play here is we
19 don't know -- during the evening, we don't have any idea how
20 many times she may have gone to the bathroom, if she did or if
21 she didn't. So, we know one time, which was in the morning
22 before that. And, so, there's some problems with just taking
23 that test and saying "none detected," and just throwing it out
24 the window and saying, "Well, it wasn't a drug-facilitated
25 assault."

12:10 1 Q. Isn't that one of the -- if I'm a bad guy, isn't that one
2 of the reasons I want to use a drug facilitation -- excuse
3 me -- a rape facilitation drug, anyway, is because it leaves
4 the body quickly?

12:10 5 A. Well, there's two reasons. One is basically it usually
6 gets out of the system pretty quickly. And secondly is its
7 effects which tend to make drug-facilitated rape possible.

8 Q. Those effects being, I think you talked about earlier, the
9 increased libido, the lack of memory, those things. Is that
12:10 10 right?

11 A. Yeah, the amnesia. You know, and not everybody has an
12 increased libido. It has in some people. But it can be a
13 sedative. So, it just depends on the drug combination,
14 everything that she has.

12:10 15 Q. Let's go on to the third one, Doctor, "Drinking too little
16 to account for the intoxication level." I think you and
17 Mr. McKinney had a little wrestling match over that one. But
18 your answer is?

19 A. Basically, she talked about taking two sips and doesn't
12:11 20 remember anything. In reading the investigative report, the
21 different depositions and so forth, you know, the thing is, is
22 that I looked at and she could have had around two to three
23 drinks. It's not clear if she drank a lot -- you know, drank a
24 full drink versus having a couple of sips. And, you know, what
12:11 25 was indicated just before we broke was, you know, that she had

1 a couple of sips and then she doesn't remember anything else.
2 That, to me, is drinking too little to account for
3 intoxication.

4 Q. And then you also, I think, had a little wrestling match
5 over the next one, "The victim felt strange or suddenly drunk."
6 And I want to give you an opportunity to explain your answer on
7 that one, Doctor.

8 A. Again, when I say I don't anticipate somebody having a
9 drink and doesn't remember anything afterwards as being normal;
10 so, that, to me, is strange, would classify as being strange or
11 suddenly drunk. That is a sign of intoxication, when you don't
12 have that period there.

13 Q. And what about, "The victim being heavily intoxicated
14 rapidly"?

15 A. That goes with the same thing I just said, is she had a
16 couple of sips of that drink. That drink was mixed by someone
17 else and given to her, and she doesn't remember anything after
18 that.

19 Q. Now, I want to talk about the next one a little bit,
20 Doctor. You said that -- vaginal soreness and signs of sexual
21 activity, I think that that one was written up as subjective
22 when Mr. McKinney was asking you questions. But there's
23 actually an objective component to that, as well, is there not?

24 A. Well, without memory, it's a subjective point. You know,
25 an important thing to remember is, from a scientist's

1 standpoint, I would love to have all objective values: blood
2 pressures, weights. Those are numbers that we can -- you know,
3 they're pretty there.

4 But if you think of all the diseases that we rely
5 on in diagnosing as subjective, you know, we were talking about
6 antidepressants, depression is -- anxiety, these type of things
7 are largely dependent on diagnosing by subjective. So, the
8 subjective aspect is without the memory. The vaginal soreness,
9 signs of sexual activity, those are documented in the -- in
10 Dr. Schulz' report.

11 MR. KELLY: Your Honor, may I approach?

12 THE COURT: You may.

13 BY MR. KELLY:

14 Q. Doctor, is this the report that you're talking about?

15 A. Turn it this way just a little.

16 Yes.

17 Q. What do you see that is an objective finding of sexual
18 activity here?

19 A. Well, "very erythematous" is basically redness. So,
20 that --

21 MS. CATES: Objection, your Honor. May we approach?

22 THE COURT: Well, I think I know what you're going to
23 say. We can't really have testimony by this witness as to
24 OB-GYN kind of testimony. So --

25 BY MR. KELLY:

1 Q. Well, let me ask you this, Doctor. In reviewing
2 Dr. Schulz' testimony, was it clear that at least some sort of
3 sexual activity had occurred?

4 A. Yes.

5 Q. Did you review any investigative documents that would
6 indicate that sexual activity had occurred?

7 A. Yes.

8 MS. CATES: Objection, your Honor. I think he's
9 misconstruing facts. I don't think he's qualified to be an
10 expert here about whether sexual activity occurred.

11 THE COURT: Well, what he said, I think, is that he
12 took Dr. Scott's report and made that one of his assumptions.

13 Does everybody understand that? He's not
14 offering any new evidence as to whether sex went on or not.
15 He's just saying he based his report on what the OB-GYN said in
16 her report. Everybody got that?

17 Okay.

18 BY MR. KELLY:

19 Q. Did you review FBI documents that would confirm that sexual
20 activity occurred?

21 A. Yes, sir.

22 Q. What did you review?

23 A. There was samples that -- or a discussion of presence of
24 semen in various places.

25 Q. What places did you recall seeing that?

1 A. I remember, I think, on the bed sheets, on her panties. I
2 thought there was one other place, but I can't remember. But
3 there was semen that was present in two or three places.

4 Q. Vaginal swabs maybe?

5 A. That may have been it, yes.

6 Q. So, that would be the objective component of Number 6?

7 A. Correct.

8 Q. Okay. Now, being told she got a date rape drug -- before
9 we answer this one -- before we answer this, explain why that's

10 important. Why is it important to know -- or to evaluate
11 whether or not someone was told they got a date rape drug?

12 A. The thing about it is that what I looked at with this is
13 that was there the knowledge or was there the presence in that
14 particular area of drugs that may be date rape drugs. And, so,
15 just being the fact that these were mentioned tells me that in
16 that particular environment that people were aware of these
17 date rape drugs.

18 Q. So, in this case, we didn't exactly get the comment that
19 she got it, but the import we still got?

20 A. That there was date rape drugs. I mean, if a person said
21 "Well, you were given a date rape drug," then obviously there's
22 good evidence that they were given it.

23 But the fact that they were mentioned,
24 basically -- and I think there was a description that someone
25 said he didn't put them in a drink and they were -- so,

1 therefore, they were familiar with the -- to me, it said
2 they're familiar with the effect that the drug might have.

3 Q. What about Number 8, "Witnesses told her she was drunk"? I
4 think you indicated the answer to that one was "no"?

5 A. Correct. Except -- yeah, that's true. There was -- she
6 was not told that she was drunk.

7 You know, there was a discussion about that she
8 may have been tipsy. But also -- and there were some people
9 that said that she seemed normal. But the point is, is that
10 there's a question of was there anybody with her during that
11 period of when she had the amnesiatic effect, that would be
12 able to tell her. And then we do have, as I mentioned,
13 other -- Mr. Bortz' statement, said she was possibly or
14 potentially intoxicated.

15 Q. And Number 9 is, "Victim reports amnesia." And I think you
16 answered "yes" --

17 A. Yes.

18 Q. -- before?

19 And that one, of course, is a subjective finding?

20 A. Correct.

21 Q. We agree with that.

22 And who else could possibly tell you that there's
23 amnesia?

24 A. It's like asking somebody if you're sad. I mean, you're
25 the person that determines if you're sad.

1 We have no quantitative way of assessing whether
2 somebody has amnesia.

3 Q. And then there's a -- last one is, "Cameo appearances and
4 flashbacks." And you said she did have those?

5 A. Correct.

6 Q. Okay. So, does the exhibit on the board fairly and
7 accurately represent your findings with respect to whether or
8 not Ms. Jones was given a rape-facilitation drug?

9 A. Yes, sir, it does.

10 Q. And I have another format of that, that I would like to
11 show you.

12 MR. KELLY: Your Honor, may I approach?

13 THE COURT: Yes, sir.

14 MR. KELLY: I would like to mark that as the next
15 plaintiffs' exhibit in line. It's the one I showed you --

16 MS. CATES: May I see it?

17 MR. KELLY: Yes. It's the one I showed you earlier.

18 MS. CATES: I didn't get to see it.

19 MR. KELLY: I'll show it to you.

20 I think that's my only copy, Doctor; so, I need
21 to show it to opposing counsel first.

22 MS. CATES: Your Honor, we're going to object to this
23 exhibit.

24 THE COURT: Let's approach.

25 *(At sidebar with all counsel)*

1 MR. MCKINNEY: I don't know if it's been marked. I
2 don't know what the number is, but --

3 THE COURT: This is the same thing I ruled on, isn't
4 it?

5 MR. MCKINNEY: Yes, you did, your Honor.

6 It's a summary. It was a demonstrative aid.
7 That's how you ruled on it. We're not allowed to summarize a
8 witness' testimony and mark it as an exhibit and send it back
9 to the jury.

10 MS. CATES: It's the same as expert --

11 MR. KELLY: That's fine. I'll just show it to him.

12 THE COURT: Okay.

13 MR. KELLY: I'll just show it to him. I don't need to
14 mark it.

15 *(In open court)*

16 BY MR. KELLY:

17 Q. Doctor, is what I just put on the easel a more fair and
18 accurate representation of your opinion with respect to whether
19 or not Ms. Jones was given a rape-facilitation drug?

20 A. Yes, sir.

21 Q. What is your opinion as to whether or not Ms. Jones was
22 begin a rape-facilitation drug?

23 MS. CATES: Objection, your Honor. It's covered by
24 the Daubert motion.

25 MR. KELLY: No.

1 THE COURT: Well, what -- I mean, 704 provides that
2 testimony in the form of opinion is not objectionable simply
3 because it embraces an ultimate issue. He's entitled to
4 testify about what, from his expertise, he can say about --

5 MS. CATES: I thought -- I'm sorry.

6 THE COURT: Go ahead.

7 MS. CATES: I thought that was in violation of your
8 Court's order that we discussed this morning.

9 MR. KELLY: I think if took the next step it may be,
10 your Honor; but I don't think this step violates the Court's
11 order.

12 THE COURT: Just a second.

13 I'm going to allow it. I'm going to allow it.

14 BY MR. KELLY:

15 Q. Do you have an opinion as to whether Ms. Jones was given
16 the rape-facilitation drug?

17 A. In my opinion, all of these things are very consistent with
18 that she was given a drug to facilitate the assault.

19 Q. And is your opinion offered here to a reasonable scientific
20 probability?

21 A. Yes.

22 MR. KELLY: I pass the witness.

23 **RECROSS-EXAMINATION**

24 BY MR. McKINNEY:

25 Q. I will not be long at all. Hopefully, I won't be long at

1 all.

2 A. Qualifying it.

3 Q. Try to get some short answers if we can.

4 Are you aware of Ms. Jones going to the doctor
5 the day before she saw Dr. Schulz?

6 COURT SECURITY OFFICER: Your Honor, excuse me. His
7 microphone is not on.

8 THE COURT: That's my fault.

9 MR. McKINNEY: I will repeat the question.

10 BY MR. McKINNEY:

11 Q. Are you aware of Ms. Jones going to the doctor the day
12 before she saw are Dr. Schulz?

13 A. No.

14 Q. You talked about Ambien in response to some of Mr. Kelly's
15 questions. What does Ambien have to do with this case? Did
16 Ms. Jones take Ambien? Is that one of your theories?

17 A. No, sir. But it comes into using the pharmacological
18 method in which you take -- when you have information of
19 structurally similar drugs or drugs that may act through the
20 same mechanism, there are inferences made as to the mechanism
21 of action and the side effects. That's a very common thing
22 that's done in clinical medicine, pharmacology, and toxicology.

23 So, the fact is, is that by looking at drugs that
24 have similar actions and working on similar receptors, things
25 that occur with those can apply to the drugs that we're just

1 learning new information about.

2 Q. Well, in order to apply the Ambien lesson to whatever drug
3 you believe Ms. Jones took, you would have to know what that
4 drug was first, wouldn't you?

5 A. When you look at the general classes -- again, I can't tell
6 you which drug she took. But if you look at Ambien, Ambien
7 acts on a GABA receptor. That is the same receptor that
8 Rohypnol acts on. GABA -- excuse me -- gamma-hydroxybutyrate,
9 or GHB, acts through the receptor.

10 Many of the drug-facilitated -- excuse me -- the
11 drugs used for date rape all act through that receptor. So, it
12 would pharmacologically be rational to assume that those
13 actions, by going through the same receptor mechanisms, could
14 produce similar actions.

15 Q. I think you said that because Ambien impacts on the same
16 part of the brain as these other drugs that therefor you can
17 translate a study on Ambien to all of these other drugs
18 possibly. Is that what you said?

19 A. I actually said "receptor." You said "part of the brain."
20 But I would include part of the brain as well as the receptors.

21 The ability to do that is referred to as
22 "structure activity relationship." And we use that to design
23 new drugs.

24 Q. I'm just trying to find out if you are saying that Ambien
25 has the same effect on the brain as Rohypnol or GHB.

1 A. Ambien can have similar -- in fact, if you look at the
2 effects of Ambien -- first of all, Rohypnol is used as a sleep
3 agent, and Ambien is used as a sleep agent. So -- and the way
4 they're doing that is acting through the GABA receptor. So,
5 there are similarities. There are some differences in the
6 drugs as far as pharmacokinetics and the exact mechanism, but
7 there are similarities.

8 Q. So, is Ambien a date rape drug?

9 A. Ambien has been used as a date rape drug but not to the --
10 and I mentioned that very early on this morning.

11 Q. Is there any evidence that Ms. Jones was given Ambien that
12 evening?

13 A. No.

14 Q. And finally, you said that my client stated that possibly
15 Ms. Jones was intoxicated. The totality of his statement to
16 the State Department was she might possibly have been
17 intoxicated but appeared to be in full control of her
18 faculties. Fair statement?

19 A. Let me look real quick. I think I have that statement
20 here.

21 I'm looking at -- this is the FBI report. It's
22 Bates Number Jones 00157. And what I was referring to is, "In
23 response to a direct question, Bortz stated that Jones did not
24 exhibit behaviors which would indicate a loss of her faculties,
25 that she was impaired in her ability to walk or slurring in

1 speech. However, Bortz" --

2 THE COURT: Slow down just a little bit.

3 THE WITNESS: I'm sorry.

4 THE COURT: "However"?

5 THE WITNESS: I'm sorry.

6 A. "However, Bortz admitted that it was 'entirely possible'
7 that Jones was intoxicated at the time."

8 That was what I was referring to at the time.

9 BY MR. MCKINNEY:

10 Q. All right. But the point is that in toto -- or the
11 totality of his statement at the time was that she appeared
12 fine but it was possible -- or entirely possible that she was
13 intoxicated, correct?

14 A. That's what it said, yes.

15 Q. All right. And nobody else even stated it was possible
16 that she was intoxicated?

17 A. No, sir, not that I'm aware of.

18 Q. All right. Thank you.

19 THE COURT: Anything further?

20 MR. KELLY: I have one question, your Honor.

21 **FURTHER REDIRECT EXAMINATION**

22 BY MR. KELLY:

23 Q. Is a comment about feeling like you have been "food
24 poisoned or something" consistent with coming out of an episode
25 of having been drugged with a rape-facilitation drug?

1 A. Yes, sir. Nausea is a very common side effect of those
2 drugs.

3 MR. KELLY: I pass the witness.

4 THE COURT: You may step down, Doctor. Thank you very
5 much.

6 THE WITNESS: Thank you, Judge.

7 THE COURT: Safe travels.

8 THE WITNESS: Appreciate it.

9 THE COURT: All right. Let's try to get one more
10 witness in if we can.

11 MR. ESTEFAN: Your Honor, we have an issue about that.
12 We do have Dr. Lahiri next. And, so, we struggled about
13 whether to finish Mr. Arroyo's deposition that we tried to do
14 by video yesterday before putting her on; but we think she'll
15 take the balance of the afternoon after the lunch break
16 perhaps.

17 THE COURT: Can we do the rest of Mr. Arroyo's?

18 MR. ESTEFAN: If the Court wishes to, certainly.
19 We're ready.

20 MR. HEDGES: We're just very anxious to make sure we
21 get to Dr. Lahiri.

22 THE COURT: Well, I'm all for that. I've got another
23 scheduling issue. The criminal case that I thought was this
24 morning is at 1:30. So, I thought if we could break for lunch
25 like 1:15 or so I could deal with the criminal matter while

12:27 1 you-all are eating and -- something like that.

2 MR. HEDGES: I think that might get pretty much all
3 the rest of Arroyo.

4 MR. ESTEFAN: We only have about ten minutes of our
12:28 5 proffer, your Honor. And their cross is about --

6 THE COURT: Well, let's try to wind it up, then.
7 Let's try to do that.

8 MR. ESTEFAN: Okay.

9 MR. KELLY: Your Honor, is it okay if I step outside
12:28 10 during the video if I need to?

11 THE COURT: Yes.

12 *(Videotaped of testimony of Pete Arroyo playing)*

13 MR. ESTEFAN: That concludes our offer, your Honor.

14 THE COURT: Okay. Defendants wish to play their
12:39 15 offering?

16 MS. HOLCOMBE: Yes, your Honor.

17 *(Videotaped of testimony of Pete Arroyo playing)*

18 THE COURT: Is that it?

19 MR. McKINNEY: That's it's.

01:27 20 THE COURT: We'll excuse the jury till 2:15.

21 Would all please rise for the jury?

22 *(Recess was taken from 1:27 p.m. to 2:31 p.m.)*

23 *(Jury not present)*

24 THE COURT: Okay. What's up?

02:31 25 MS. CULLEN: Your Honor, Mr. Kelly wants to use a

0 2 : 3 1 1 demonstrative with Dr. Lahiri, who's the next up. It's a
2 double-sided demonstrative. There's two pictures. I've got no
3 problem with the first one. But the second one shows what he's
4 calling a tear in the capsule.

0 2 : 3 1 5 That is not consistent with the medical records
6 or the testimony of the doctors to date. And I think it shows
7 a significantly different injury than the one documented by
8 surgeon Dr. Ciaravino, and I object to him using that, the one
9 on the right-hand side. The difference being Dr. Ciaravino
0 2 : 3 2 10 described the implant bottoming out.

11 THE COURT: Just a minute. There's no objection to
12 one expert -- there's nothing improper with one expert
13 disagreeing with another.

14 Are you saying this is different from what's in
0 2 : 3 2 15 his report?

16 MS. CULLEN: Dr. Lahiri does not say there's a torn
17 capsule, in her record. This is a treating physician. And she
18 certainly doesn't say that in her record, and she didn't
19 perform the surgery. So, I'm not sure --

0 2 : 3 2 20 THE COURT: Okay. Let met ask Mr. Kelly.

21 MR. KELLY: Well, first of all, there's actually yet a
22 third plastic surgeon who's looked at Ms. Jones, your Honor,
23 Dr. Michael Eisenmann, who actually looked at Ms. Jones on
24 behalf of KBR defendants. In fact, it does say that Ms. Jones
0 2 : 3 2 25 has the torn capsules.

0 2 : 3 3 1 I will represent to the Court that I was speaking
2 with Dr. Lahiri moments ago and she said that she is going to
3 have to explain to the jury that the tears on this particular
4 exhibit appear to be a little higher than they would have been.
0 2 : 3 3 5 So, we're going to have to make that explanation. I can't make
6 the change on the fly to the exhibit, but she'll explain that
7 the tears are actually drawn a little higher.

8 THE COURT: Let's see what her testimony is. And if
9 Mr. Kelly has other treating physician documents to support the
0 2 : 3 3 10 demonstrative, we'll have to go through all that. It won't be
11 shown to the jury until it happens.

12 MR. HEDGES: Your Honor, to save doing something up
13 here with the jury sitting over there, I intend to ask
14 Dr. Lahiri some questions about some testimony she gave in a
0 2 : 3 3 15 deposition in a related lawsuit. If she says the same thing on
16 the stand she says in the deposition, that's fine. But I may
17 need to use that deposition to impeach her.

18 THE COURT: That's all right. That's allowed.

19 MR. KELLY: Your Honor, that deposition transcript has
0 2 : 3 3 20 never been provided to us. Now, I will represent to the Court
21 I was present, but --

22 MR. HEDGES: He was there.

23 MR. KELLY: Wait, wait.

24 I was present, but I was not entitled to a copy
0 2 : 3 4 25 of the transcript. I do not have a copy of the transcript, and

0 2 : 3 4 1 it's never been provided to me.

2 THE COURT: Well, your client should have provided
3 that.

4 MR. KELLY: I don't even know that she has it.

0 2 : 3 4 5 THE COURT: The treating physician should have
6 provided that, is what I mean.

7 MR. KELLY: Well, the treating physician is not --
8 we're calling her as a witness, your Honor; but I don't have
9 control over her.

0 2 : 3 4 10 THE COURT: Well, I mean, I'm not going to exclude it
11 on that basis. It's a deposition you were present at.

12 I'm sorry.

13 MR. HEDGES: May not even need to use it.

14 THE COURT: Okay.

0 2 : 3 4 15 *(Discussion off the record)*

16 THE COURT: Okay.

17 MR. KELLY: Your Honor, with respect to using a
18 deposition from another case in this case, I would only ask
19 that if that's going to happen, that it at least be done
0 2 : 3 5 20 properly. We've seen a lot of improper attempts at impeachment
21 with depositions in this case, and I'd just like to make sure
22 that she actually, in fact, testifies inconsistently.

23 THE COURT: Well, Mr. Hedges indicated that's the only
24 instance in which he's going to use it.

0 2 : 3 5 25 MR. HEDGES: If she testifies consistently, your

0 2 : 3 5 1 Honor, we won't use it.

2 MR. KELLY: As long as you're not reading it in first,
3 that's fine.

4 MR. HEDGES: No.

0 2 : 3 5 5 MR. KELLY: I guess that's the other thing, too, your
6 Honor. Can we get a copy of the deposition from Mr. Hedges?
7 Because there's no way that I can --

8 THE COURT: No. He's got to do that in order to use
9 it.

0 2 : 3 6 10 *(Jury present)*

11 THE COURT: Members of the jury, please be seated.

12 Good afternoon, Doctor. We're going to have you
13 up in this seat right here.

14 Before you take your seat, Ms. Loewe will
0 2 : 3 6 15 administer the oath.

16 MS. LOEWE: Do you solemnly swear the testimony you're
17 about to give in the matter now before the Court will be the
18 truth, the whole truth and nothing but the truth?

19 THE WITNESS: I do.

0 2 : 3 7 20 THE COURT: Please try to make yourself as comfortable
21 as you can, and try to speak directly into the mic. We've had
22 some trouble with that.

23 You may inquire.

24 ///

25 ///

1 **SABRINA ANN LAHIRI, DULY SWORN, TESTIFIED:**

2 **DIRECT EXAMINATION**

3 BY MR. KELLY:

4 Q. Doctor, would you introduce yourself to the ladies and
0 2 : 3 7 5 gentlemen of the jury, please?

6 A. My name is Sabrina Ann Lahiri, MD.

7 Q. And what do you do for a living, Doctor?

8 A. I'm a plastic and reconstructive surgeon.

9 Q. Tell me where you got your education.

0 2 : 3 7 10 A. I started my education -- you want me to start in college?

11 Q. Yes, please.

12 A. University of California at Berkeley. And then I went to
13 the University of Arkansas Medical School. Then I went to the
14 University of Texas, San Antonio, for general surgery training.
0 2 : 3 7 15 And then to the University of Miami for plastic surgery
16 training.

17 Q. When did you graduate from your plastic surgery training,
18 Doctor?

19 A. In 2002.

0 2 : 3 7 20 Q. And what do you do now?

21 A. I'm a plastic and reconstructive surgeon in The Woodlands,
22 Texas.

23 Q. And do you currently treat patients on a daily basis?

24 A. I do.

0 2 : 3 8 25 Q. How many patients do you treat, say, on a monthly basis,

02:38

1 Doctor; how many patients do you think you see?

2 A. Well, I probably see 80 patients a week. So, I would say
3 roughly 300.

02:38

4 Q. And as part of your practice, do you do breast augmentation
5 surgery?

6 A. I do.

7 Q. How many breast augmentation surgeries do you think you've
8 performed?

02:38

9 A. I've performed a lot. I would say, on the average,
10 probably 25 to 30 a month.

11 THE COURT: Over 300 lifetime?

12 THE WITNESS: Well, that's 20 to 25 a month for nine
13 years.

14 THE COURT: So, more like over 1500?

02:38

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 BY MR. KELLY:

18 Q. Do you know Jamie Leigh Jones?

19 A. I do.

02:38

20 Q. How do you know her?

21 A. She was a patient of mine.

22 Q. And when did you first meet Ms. Jones?

23 A. I met her back in September of 2004.

02:39

24 Q. And when she first came to see you, did you diagnose her
25 with a medical condition?

02:39

1 A. I did.

2 Q. What medical condition is that?

3 A. It's called breast hypoplasia.

4 MR. KELLY: Your Honor, may I approach?

02:39

5 THE COURT: You may.

6 MR. KELLY: And these are KBR 70, Page 90.

7 BY MR. KELLY:

8 Q. Doctor, I'm going to put up two photographs and just ask
9 you if you recognize those photographs.

02:39

10 A. Yes, I do.

11 Q. And what are they?

12 A. They are breast photos of Jamie Jones.

13 Q. Does this show the -- you said breast hyperplasia? Is
14 that --

02:39

15 A. Hypoplasia.

16 Q. Hypoplasia.

17 And what's the difference between hypo and hyper?

18 A. Hypo is too small; hyper is too big.

19 Q. Is that the condition -- the breast hypoplasia, is that the
20 condition for which Jamie came to see you?

02:40

21 A. Correct.

22 Q. And did you make a recommendation based upon what you saw
23 in those photographs?

24 A. I recommended a breast augmentation.

02:40

25 Q. Did Jamie follow your recommendation?

02:40

1 A. She did.

2 Q. And was that breast augmentation successful, Doctor?

3 A. It was very successful.

02:40

4 Q. When you say "very successful," tell me what you mean by
5 that.

6 A. I mean that she healed without any complications and had
7 excellent results.

8 Q. Now, I understand that during the surgery there was an
9 incident that required a little bit of extra care.

02:40

10 A. Yes.

11 Q. Can you explain what that was?

02:40

12 A. At the time of surgery, a pneumothorax occurred. And
13 basically, because the breast sits very close on the rib cage
14 and the lungs, inadvertently retractors were placed in between
15 the ribs, which allows some air around the lung. And that has
16 to be repaired at the time of surgery. It was recognized, the
17 lung lining was repaired by me; and she recovered without any
18 complications from that.

19 Q. Did you examine her again before she left to go to Iraq?

02:41

20 A. I did.

21 Q. And was she completely recovered at that time?

22 A. Completely recovered, yes.

02:41

23 Q. Doctor, there's been some reports in this case that I've
24 read that rely upon your postsurgical photographs from this
25 breast augmentation. Can you tell me how many postsurgical

0 2 : 4 1 1 photographs you took?

2 A. I didn't take any pre-trauma postsurgical photos. So,
3 really only two sets. But that was not before the trauma.

4 Q. Okay. So, if I understand it, then, the only photographs
0 2 : 4 1 5 that you took of Jamie's breasts at all before she went to Iraq
6 is the ones we're looking at. And I think there may have been
7 a third one, as well. But basically the ones that were taken
8 at this time?

9 A. Correct.

0 2 : 4 2 10 Q. Is it fair to say that any opinion that is formed based
11 upon the postsurgical photographs that you took from this
12 breast augmentation would have been formed in error?

13 A. Yes. Because they're after the trauma.

14 Q. I want to direct your attention, if I could, to KBR
0 2 : 4 2 15 Exhibit 70 at Page 3. And I think we'll have to put this on
16 the board.

17 MR. KELLY: I don't believe I have an objection to
18 this exhibit.

19 MR. HEDGES: Which one?

0 2 : 4 2 20 MR. KELLY: KBR 70.

21 MR. HEDGES: No objection.

22 THE COURT: I'll admit it without objection, if it
23 hasn't already been.

24 MR. KELLY: Thank you, your Honor.

0 2 : 4 2 25 The third page.

0 2 : 4 2 1 Your Honor, we have a communication issue here.

2 BY MR. KELLY:

3 Q. Have you ever described the results of Jamie's breast
4 augmentation to anyone prior to her leaving for KBR? [sic]

0 2 : 4 3 5 A. I have. I believe I described them as "perfect."

6 Q. I probably have my page numbers wrong here. Let me check.

7 MR. KELLY: Just a moment, your Honor. The exhibit
8 I'm looking for is not in the packet that I have.

9 THE COURT: Okay.

0 2 : 4 5 10 BY MR. KELLY:

11 Q. While we're looking for that -- so we don't keep the jury
12 waiting any longer than we have to, I'm going to come back to
13 it.

14 Do you recall when you last visited with Jamie
0 2 : 4 5 15 before she left for Iraq, Doctor?

16 A. I do.

17 Q. When was that?

18 A. That was in March of '05, I believe.

19 Q. Okay. Was it March of '05 when you wrote the letter that
0 2 : 4 5 20 we're talking about?

21 A. Yes.

22 Q. And it's actually the letter that we're looking for right
23 now.

24 A. Okay.

0 2 : 4 5 25 Q. Oh, we have it.

02:45 1 MR. KELLY: This was not in your exhibit. Any
2 objection?

3 MS. VORPAHL: No.

4 MR. HEDGES: No objection.

02:45 5 MS. VORPAHL: It's already been admitted. You
6 admitted it.

7 MR. KELLY: Has this been admitted?

8 Okay. I don't know what the number is.

9 BY MR. KELLY:

02:45 10 Q. Doctor, is this the letter you described earlier, referring
11 to --

12 A. Yes.

13 Q. And is that a word that you freely throw around?

14 A. No, I don't often use "perfect," because breasts aren't
02:46 15 perfect. But I felt like her results were excellent.

16 Q. After this letter, Doctor, when did you next see Jamie
17 Jones?

18 A. I saw her in August.

19 Q. And do you recall the exact date?

02:46 20 A. I don't remember the exact date. I think it was in the
21 middle of August.

22 Q. Okay. This is after she returned from Iraq?

23 A. Yes.

24 Q. And when she returned from Iraq, did she give you a history
02:46 25 and physical at that time -- or a history?

02:46

1 A. She gave me a history of what she described that happened
2 to her in Iraq.

3 Q. And based upon that history, did you examine Jamie's chest?

4 A. I did.

02:47

5 MR. KELLY: May I approach, your Honor?

6 THE COURT: You may.

7 Where are your offices, Doctor?

8 THE WITNESS: My offices?

9 THE COURT: Roughly.

02:47

10 THE WITNESS: They're in The Woodlands, Texas.

11 THE COURT: I see.

12 BY MR. KELLY:

13 Q. Can you read that date, Doctor?

14 A. I can. It says August 15th, 2005.

02:47

15 Q. Doctor, is this -- were these photographs taken on that
16 first visit after Jamie returned from Iraq?

17 A. Yes.

18 Q. Now, I have to ask you to explain to me what you're seeing
19 there, other than just, obviously, a woman's breasts. But can
20 you explain to us what we're looking at?

02:47

21 A. Basically, obviously, this is a frontal view of breast
22 photography. And what I saw at the time of the physical exam
23 is that this length of the breast is too long, which means that
24 it's bottomed out. The left side is more so than the right
25 side, meaning that the length below the areola to the

02:48

02:48 1 infra-mammary fold is too long. And what it does is it puts
2 the breast out of proportion.

3 Q. What causes the condition that you just described as
4 "bottoming out"?

02:48 5 A. It can be poor technique at the time of surgery; certainly,
6 older implants, meaning ten, 15 years down the road; trauma can
7 cause it also.

8 Q. Now, going back to technique, you mentioned earlier the
9 pneumothorax that occurred during your procedure. Could that
02:48 10 pneumothorax have led to the condition that we're looking at
11 with this bottoming out in Jamie?

12 A. Absolutely not.

13 Q. And why is that true?

14 A. Well, it just doesn't cause this problem. And the
02:49 15 pneumothorax was treated at the time of surgery.

16 Q. And was it completely healed?

17 A. Completely healed.

18 Q. Is this a severe case of bottoming out, Doctor?

19 A. It is.

02:49 20 Q. Okay.

21 A. And the pictures don't do it justice either.

22 Q. Okay. So, when you look at Jamie's chest yourself, it
23 actually looks worse than this?

24 A. Yes.

02:49 25 Q. Okay. Now, I want to clear up a couple of things. In this

02:49 1 photograph, in order for that condition to occur, in order for
2 the bottoming out condition to occur, what's happening
3 internally?

4 A. Well, a couple of things can happen. If it's lengthy,
02:49 5 let's say ten or 15 years down the road, it can be that the
6 capsule had stretched and thinned out. This soon after an
7 operation, the capsule must have torn or disrupted somehow.

8 Q. Have you reviewed any medical records that would indicate
9 that anyone else has looked at Ms. Jones and determined that,
02:50 10 in fact, the capsules were torn?

11 A. I have.

12 Q. And whose records have you reviewed?

13 A. I reviewed Dr. Eisenmann's and Dr. Ciaravino's.

14 Q. Did they both confirm your findings that there had been
02:50 15 capsules tearing?

16 A. Yes, they did.

17 Q. Have you reviewed a demonstrative aid in this case that
18 would help to explain this injury to people like myself, who
19 don't really understand what's going on with the breast
02:50 20 augmentation surgery?

21 A. You say -- what do you mean by that?

22 Q. Well, have you reviewed a demonstrative aid in this case
23 that would help explain what's happening here?

24 A. "Demonstrative aid"? I'm sorry I'm --

02:51 25 MR. KELLY: May I approach, your Honor?

02:51

1 THE WITNESS: I'm sorry.

2 THE COURT: "Demonstrative" just means something the
3 lawyers and the lawyers' colleagues have created to explain
4 something to the jury.

02:51

5 THE WITNESS: Oh, a pictorial.

6 A. Yes, I have. I'm sorry. I have, yes.

7 MR. KELLY: May I approach, your Honor?

8 THE COURT: You may approach.

9 BY MR. KELLY:

02:51

10 Q. Is that demonstrative aid something that you've had an
11 opportunity to review and offer any corrections to that you
12 might wish to offer?

13 A. I have.

14 Q. And does that demonstrative aid fairly and accurately
15 represent what was happening in August of 2005 in Jamie Jones'
16 chest?

02:51

17 A. I believe it does. It could show probably a little bit
18 more tearing at the bottom, but yes.

19 MR. KELLY: Your Honor, I would like to publish this
20 to the jury at this time.

02:51

21 MR. HEDGES: No objection.

22 THE COURT: Admitted without objection. Not admitted,
23 but allowed without objection.

24 One difference with demonstratives, as I probably
25 explained already, at the end of the case they do not go back

02:51

0 2 : 5 2 1 to the jury.

2 BY MR. KELLY:

3 Q. Should be coming up electronically.

4 And I believe this is the left-hand side of that
0 2 : 5 2 5 demonstratives. Is that right, Doctor?

6 A. You mean the left breast?

7 Q. Right. It's -- I'm sorry.

8 We're only looking at half the demonstrative at a
9 time, right?

0 2 : 5 2 10 A. This side. Okay.

11 Q. If you would explain to us what it is that we're looking
12 at -- there we go. There's the whole thing.

13 Can you explain what it is that we're seeing and
14 what's happening in Jamie's chest in August of 2005?

0 2 : 5 2 15 A. Well, basically, you can see by the arrows on both photos
16 that the implant has shifted inferiorly, and that's called
17 "implant malposition." And on that side view, they've put
18 arrows towards the torn capsule, which definitely can happen at
19 the top. But also, when it shifts downward, the capsule is
0 2 : 5 3 20 torn more inferiorly; and that's why that implant shifts down.

21 So, when the implant shifts down, you can see the
22 nipple starts pointing up. And that's why that length or that
23 distance is too long.

24 Q. You said that trauma can cause this. And I guess -- before
0 2 : 5 3 25 I do that, let me -- let's look at the right-hand side, where

0 2 : 5 3 1 it says "torn capsules."

2 And I think you said earlier that you could show
3 more tearing lower. Can you explain to us what you mean by
4 that, if this were to be made even more accurate than it is?

0 2 : 5 3 5 A. Well, that bottom arrow, you should see more tearing of the
6 capsule inferiorly, also.

7 Q. Okay. Was this a severe case of bottoming out?

8 A. Yes, it was when I saw it initially.

9 Q. Did you, in fact, record that in your medical records, that
0 2 : 5 4 10 this was a severe injury?

11 A. I did.

12 Q. Is it still your opinion today that this is a severe
13 injury?

14 A. Yes.

0 2 : 5 4 15 THE COURT: Is there recognized treatment for this
16 kind of problem?

17 THE WITNESS: There is.

18 THE COURT: Has she had that yet?

19 THE WITNESS: She had one treatment for that, yes.

0 2 : 5 4 20 THE COURT: But you think there are more to come?

21 THE WITNESS: Yes, I do believe she needs more.

22 Absolutely.

23 BY MR. KELLY:

24 Q. Tell us what the additional treatment is that Ms. Jones
0 2 : 5 4 25 needs.

0 2 : 5 4 1 A. The treatment required for this is -- it's a difficult
2 operation. You have to recreate the infra-mammary fold, and
3 you have to reposition the implant. In prior years, it was you
4 tried to use some of that capsule as a hammock to sling it up
0 2 : 5 4 5 and try to hold that with sutures, which was fraught with
6 problems and frequently it would recur, the implant
7 malposition. Now we have newer products such as Stratus. So,
8 it's a skin that we use, that we put on the inside, that is
9 sutured in like a hammock; and it holds the implant up so that
0 2 : 5 5 10 it stays in the proper position.

11 Q. You mentioned that Ms. Jones has had one attempted repair
12 at this already. Who did that?

13 A. Dr. Ciaravino did that.

14 Q. Following Dr. Ciaravino's surgery, what was Jamie's
0 2 : 5 5 15 condition at that time?

16 A. I think she had some improvement but still had implant
17 malposition.

18 Q. Do you currently -- are you currently Jamie's physician?

19 A. I have seen her recently, yes.

0 2 : 5 5 20 MR. KELLY: Your Honor, may I approach?

21 THE COURT: Yes, you may.

22 BY MR. KELLY:

23 Q. Doctor, I put a photograph on the board which is dated
24 12-16-09. Did you take that photograph, as well?

0 2 : 5 6 25 A. I did.

0 2 : 5 6 1 Q. And can you explain to us -- is that also Jamie Jones?

2 A. Yes.

3 Q. Can you explain to us what's going on in that photograph?

4 A. She still has the implant malposition. And you can see the
0 2 : 5 6 5 length below the areola to the fold is very long. Obviously,
6 it's longer on the left side versus the right side. Which does
7 need to be repaired.

8 Q. And this is after Dr. Ciaravino had attempted his first
9 repair?

0 2 : 5 6 10 A. Yes.

11 Q. Economically, Doctor, what does it cost to have one of
12 these surgical repairs?

13 A. With the Stratus that I described, which is a very
14 expensive product, probably in the range of nine to twelve
0 2 : 5 7 15 thousand dollars.

16 Q. Okay. You've explained what the surgery would entail.
17 Doctor, other than the -- well, let me ask it this way.

18 What is the most likely cause of what happened,
19 what's causing what's going on in that photograph?

0 2 : 5 7 20 A. Well, I go back to the fact that she has implant
21 malposition. And the root of it is what originally happened.
22 And it's an extremely difficult problem to repair in plastic
23 surgery. It's just been known to do that.

24 Q. When you say "what originally happened," Doctor, are you
0 2 : 5 7 25 talking about the trauma in Iraq?

0 2 : 5 7 1 A. I'm assuming the trauma, yes.

2 Q. When you say you're "assuming the trauma," I want to ask
3 you about that. The condition that you see, based upon the
4 other 1500 or so surgeries that you've done, is it more likely
0 2 : 5 7 5 that what happened to Jamie was caused by trauma or by some
6 postsurgical abnormality?

7 A. It was definitely most likely trauma.

8 Q. The opinions that I've asked you for today, have you
9 offered them to a reasonable medical probability?

0 2 : 5 8 10 A. Yes.

11 MR. KELLY: Pass the witness.

12 THE COURT: Okay. You wish to inquire?

13 MR. HEDGES: Yes, sir.

14 **CROSS-EXAMINATION**

0 2 : 5 8 15 BY MR. HEDGES:

16 Q. Doctor, my name is Dan Hedges. I'm representing KBR. I
17 don't believe we've had the pleasure of meeting before, have
18 we?

19 A. No.

0 2 : 5 8 20 MR. HEDGES: May I approach the paper board, your
21 Honor?

22 THE COURT: You may.

23 BY MR. HEDGES:

24 Q. I long ago learned that it was dangerous for me to do math
0 2 : 5 9 25 in public, but I wanted to clarify something.

02:59 1 I believe you said you did 30 breast
2 augmentations a month?

3 A. About 25 to 30, yes.

4 Q. So, if it was 30 a month, it would be 360 a year?

02:59 5 A. Okay.

6 Q. I believe you said you've been doing this for nine years?

7 A. Nine years in private practice.

8 Q. And, so, wouldn't it be more like over 3,000 surgeries,
9 breast augmentations?

02:59 10 A. Probably, yes.

11 Q. In about what percentage of those 3,250 surgeries have you
12 taken post-op photographs?

13 A. Probably 75 to 80 percent of them.

14 Q. Why weren't any post-op pictures taken -- or were they just
03:00 15 misplaced or something, as to Ms. Jones?

16 A. It would be that the patient was -- well, either so happy
17 they don't come back. I mean, some patients just don't come
18 back for follow-up.

19 I usually take post-op photos about six to nine
03:00 20 months later. So I continue to see my patients out further.
21 So, I like for them -- their scars to fade a little bit more
22 before I take photos. So, it's usually that the patient just
23 hasn't come back for them.

24 Q. Do you recall one way or the other why there were no
03:00 25 post-op photos made of Ms. Jones?

03:00

1 A. Because it was so soon after her initial surgery.

2 Q. I'm sorry. What was so soon after her initial surgery?

3 A. When I saw her in March. So, typically, I would take them
4 at six to nine months. And that's why I didn't take them.

03:00

5 Q. You did not see her six to nine months post-surgery?

6 A. I saw her at about four months.

7 MR. HEDGES: Can we put up KBR Exhibit 70, Page 71?

8 And can we blow up the third paragraph in the
9 written part?

03:01

10 Yeah.

11 BY MR. HEDGES:

12 Q. Can you see that, Doctor?

13 A. Uh-huh.

14 Q. It says -- and this is the -- this is a more detailed
15 description of what you described earlier as a pneumothorax?

03:01

16 A. Correct.

17 Q. And it says, "The pectoralis muscle was then incised" --
18 does "incised" -- is that doctor talk for "cut"?

19 A. Yes.

03:01

20 Q. Okay.

21 -- "using electrocautery directly over the rib.
22 Two Army-Navy retractors were placed. And upon looking after
23 the retractors were placed, it appeared that the intercostal
24 muscle was torn, and the pleura, visualizing the lung."

03:02

25 I want to go into that with you in some detail.

03:02 1 Are you saying that just the intercostal muscle was torn or are
2 you saying the intercostal muscle and the pleura was torn?
3 A. Well, the intercostal muscle and the pleura, because there
4 are two sides of the pleura, yes.

03:02 5 Q. So, the pleura was torn?
6 A. Correct.

7 Q. And I gathered we're talking something more than just a
8 puncture wound, because the tear was big enough that you could
9 actually see the lung?

03:02 10 A. Not necessarily. What you actually see, because the ribs
11 are so close together, you'll see air bubbling through it.

12 Q. What does it mean when it says "visualizing the lung"?
13 Doesn't that mean you could see the lung?

14 A. I mean, after I looked and saw air, then I could see, you
03:02 15 know, when I put the retractors in. So, it might be, like, a
16 sliver of it, like a millimeter or two.

17 Q. The "it" you're referring to is the lung, correct?
18 A. Correct.

19 Q. So, you were able to see the lung?

03:03 20 A. Yes.

21 Q. Let me ask you this. Out of the over 3,000 breast
22 augmentations that you have performed, in how many of them has
23 the intercostal muscle been torn and the pleura also torn,
24 visualizing the lung?

03:03 25 A. This is the only time.

03:03

1 Q. Only time?

2 A. Uh-huh.

3 Q. Let me go into a little more detail on what was done.

4 Before I do, how many stitches were used to close
5 this tear?

03:03

6 A. You know, I don't remember exactly how many. Probably --
7 if you use a running, maybe four or five.

8 Q. And did you have to stitch up each of the various layers
9 that were pierced?

03:03

10 A. No. What I did is I used a red rubber catheter. And what
11 you do -- because what happens, when you violate that space,
12 air goes around the pleura, so you have to suction the air out.

13 So, you suction the air out with that catheter,
14 and then suture it up. And, so, probably about four or five
15 sutures. It was a pretty small tear in that area.

03:04

16 MR. HEDGES: May I approach the board again, your
17 Honor?

18 THE COURT: You may.

19 BY MR. HEDGES:

03:04

20 Q. Doctor, before you actually get to the intercostal muscle
21 and the pleura, you have to actually go through some other
22 things first, correct?

23 A. (No response).

24 Q. Let's start here. You have to cut through the skin?

03:04

25 A. Sure.

03:05

1 Q. You have to cut through the breast tissue?

2 A. Yes.

3 Q. And then you get to the pectoralis major?

4 A. Correct.

03:05

5 Q. And then do you have to cut through the pectoralis minor?

6 A. Typically not.

7 Q. But is the pectoralis minor typically under the pectoralis
8 major?

9 A. Yes, it is.

03:05

10 Q. And then the intercostal is actually below the pectoralis
11 minor, isn't it?

12 A. Right. It's in between the ribs.

13 A. In between the ribs.

14 Q. In between the ribs?

03:06

15 A. That's why it's called intercostal.

16 Q. Intercostal. Okay. Intra, between?

17 A. Yes.

18 Q. And you went through it and then through the ribs?

19 A. Right. So --

03:06

20 Q. And down to the pleura?

21 A. Yes.

22 Q. Now, the pleura is the internal covering of the thoracic
23 cavity. Is that accurate?

24 A. Uh-huh. There's a pleura on the lung and, then, inside the
25 thoracic cavity.

03:06

03:06 1 Q. And is it the pleura on the lung that you cut through?

2 A. No.

3 Q. It was the pleura on the cavity?

4 A. Correct.

03:07 5 Q. All right. And just so the jury understands what we're
6 talking about, the thoracic cavity is where the lungs are
7 located?

8 A. Correct.

9 Q. And, Doctor, is it accurate to say that the pleura is --
03:07 10 some body parts have a lot more nerves and nerve endings in
11 them than other body parts. Is that a fair statement?

12 A. Uh-huh.

13 Q. I'm sorry?

14 A. Yes.

03:07 15 Q. I need a "yes" or "no." The court reporter actually needs
16 it.

17 A. Yes.

18 Q. And is the pleura one of the body parts that has a great
19 many nerve endings?

03:07 20 A. It does.

21 Q. And so, when you cut through one of these body parts, in
22 this case the pleura, that is that rich in nerve endings, you
23 certainly run a serious risk of causing severe and perhaps even
24 long-lasting pain, more so than if you cut through some area
03:07 25 that doesn't have a lot of rich nerve endings?

03:08 1 A. I mean, you can. But it was such a small area that it
2 would be rare.

3 Q. Well, this occurrence is rare, is it not?

4 A. It is.

03:08 5 Q. You've had it happen one time in over 3,000 operations?

6 A. Correct.

7 Q. Can it cause pleurisy or pleuritic chest pain?

8 A. It can.

9 Q. We've had some testimony from other witnesses in this case
03:08 10 that say that, as a result of what may or may not have happened
11 to her in Iraq, Ms. Jones' pectoral muscle was torn. Are you
12 describing that, in the surgery that you performed on her in
13 November of 2004, the pectoral muscle was torn?

14 MR. KELLY: Your Honor --

03:08 15 A. No, it's not torn, actually.

16 THE COURT: I think she can handle it.

17 MR. KELLY: But it actually mischaracterizes what
18 prior witnesses have said. In fact, quite the opposite. They
19 said that --

03:09 20 THE COURT: Okay. Ladies and gentlemen, one of the
21 issues that is often raised in a case like this, where there's
22 a lot of medical testimony of a nuanced and subtle sort, is
23 questions are asked that may refer to the testimony of a
24 previous expert or a previous treating physician.

03:09 25 Very often attorneys on opposite sides of the

03:09 1 case have a different version of what a prior expert or
2 treating physician might have said. I'm not going to try to
3 sort out in my own memory as to what was said. I'll let them
4 ask the questions.

03:09 5 I'd just remind the jury one more time that
6 anything that comes from a lawyer's mouth is not evidence. And
7 if you don't remember it the same way the lawyer does, then go
8 with your memory and not what the lawyer is saying.

9 MR. HEDGES: May I approach the board one more time,
03:09 10 your Honor?

11 THE COURT: You may.

12 BY MR. HEDGES:

13 Q. Doctor, between which layers is the breast implant placed?

14 A. It's between the chest wall, so the ribs and the pectoralis
03:10 15 minor and major.

16 Q. I'm sorry. It covers like this whole area?

17 A. It's between --

18 Q. Would you draw it for me?

19 A. It would be right here.

03:10 20 Q. Okay. Thank you.

21 A. And that's the top, yeah.

22 Q. Okay. I think you may have answered this; but just for
23 clarification, can you tell the jury what "bottoming out" is?

24 A. "Bottoming out" is the malposition of the implant so that
03:10 25 the length from the bottom of the areola to the infra-mammary

03:10

1 fold is too long.

2 Q. How many surgeries have you performed to correct bottoming
3 out?

4 A. Quite a few.

03:11

5 Q. Hundreds?

6 A. Probably.

7 Q. And what percentage of those -- in what percentage of those
8 surgeries was the bottoming out caused by trauma?

9 A. None that I know of.

03:11

10 Q. None.

11 So out of hundreds of surgeries that you've
12 performed on breasts that have bottomed out, they've all been
13 either a result of the first surgery or just time and gravity
14 taking effect?

03:11

15 A. Correct.

16 Q. And none have been the result of trauma?

17 A. Correct.

18 Q. Going back to the issue of nerve endings, how -- what --
19 how sensitive to pain are breasts?

03:11

20 A. They're fairly sensitive.

21 Q. So, if Ms. Jones' breasts were severely traumatized on
22 July 27th, 2005, wouldn't she be likely to report not only
23 pain, but probably acute pain, to any doctor who examined her
24 the next day?

03:12

25 A. I would think she would.

03:12 1 Q. And for trauma -- and let's take, for example, an
2 automobile accident with which an air bag inflates and hits a
3 woman in the chest. What are the visible signs of trauma that
4 a doctor seeing that woman the next day would see?

03:12 5 A. Probably would see swelling, maybe some beginning of
6 bruising. But mostly swelling.

7 Q. Okay. Mr. Kelly, asked you some questions about
8 Dr. Ciaravino's 2006 surgery. And I would like to go through a
9 little bit more questioning on that.

03:13 10 A. Okay.

11 Q. Am I correct that it's your opinion that the stitching
12 laterally and inferiorly to maintain the capsule was likely to
13 last only three months to a year?

14 A. It's hard to predict exactly how long it will last. It's a
03:13 15 difficult operation to maintain. I just -- I can never predict
16 how long it would last.

17 Q. Is it your opinion that it was likely to last only three
18 months to a year?

19 A. I would say a capsular repair as such might last a year to
03:13 20 several years, possibly.

21 MR. HEDGES: May I approach the witness, your Honor?

22 THE COURT: You may.

23 BY MR. HEDGES:

24 Q. Doctor, do you remember giving your deposition a few weeks
03:14 25 ago?

03:14 1 A. Yes.

2 Q. And we'll look on Page 19, starting at Line 16, I'll read
3 the question if you will read the answer. Can you see that all
4 right?

03:14 5 "If, in fact, Dr. Ciaravino had surgically gone
6 in and stitched laterally and inferiorly to maintain the
7 capsule, what is your opinion as to the length of time that
8 that result would have a positive effect, if any at all?"

9 Would you read your answer, please?

03:14 10 A. Starting with 21?

11 Q. Yes, ma'am.

12 A. I said, "That's hard to say exactly. You know, usually a
13 healthy capsule is very thin. It doesn't hold suture well.

14 And, you know, if a patient has thinner tissues, those sutures
03:14 15 can fail in three months, or they might last a year. It's hard
16 to predict exactly."

17 Q. Having examined Ms. Jones over a span of what? About five
18 years or so?

19 A. (Nodding head).

03:15 20 Q. Does she have fairly thin tissue?

21 A. She does now, yes.

22 Q. And is it also your opinion that at some point in time
23 between Dr. Ciaravino's surgery in 2006 and Ms. Jones' visit to
24 you in 2009 she lost her infra-mammary fold and her breasts
03:15 25 bottomed out because Dr. Ciaravino's sutures did not hold?

03:15 1 A. I would assume that's the reason why, yes.

2 Q. In fact, would you have predicted as of July, 2006, that if
3 just sutures were placed inferiorly and laterally, they very
4 likely would not hold?

03:15 5 A. I just can't say that for sure. They might. I just don't
6 know.

7 MR. HEDGES: May I approach the witness, your Honor?

8 THE COURT: You may.

9 BY MR. HEDGES:

03:16 10 Q. I'm on Page 24 of your deposition, and I'm going to read a
11 question at Line 12, and I would like for you to read the
12 answer.

13 The question is: "You would have predicted as of
14 July of 2006, if just sutures were placed inferiorly and
03:16 15 laterally, that they would not hold?"

16 And what was your answer?

17 A. I said, "Very high likelihood, yes."

18 Q. Thank you.

19 Just to go back to the questions I was asking you
03:16 20 about bottoming out, the fact that you have performed hundreds
21 of surgeries to correct bottoming out and none of them have
22 been as a result of trauma, I assume that tells us that breasts
23 can and do -- breast implants can and do bottom out without any
24 trauma happening to them at all?

03:17 25 A. They do. But in most of the cases, they're ten and 15

03:17 1 years out.

2 Q. Right. One more question has to do with your deposition.

3 Isn't the actual cause of Ms. Jones' breast implants bottoming

4 out between the date of your surgery in November of 2004 and

03:17 5 when you saw her in August in 2005 was that her capsule thinned

6 out and didn't have the integrity to hold the weight of the

7 implant, as opposed to some kind of trauma?

8 A. So, from -- you're saying from the surgery of November to

9 the next June?

03:17 10 Q. To the next August.

11 A. So, nine months?

12 Q. Yes, ma'am.

13 A. That would be rare to happen in nine months just from

14 thinning out.

03:18 15 MR. HEDGES: May I approach the witness, your Honor?

16 THE COURT: You may.

17 BY MR. HEDGES:

18 Q. I'm on Page 21. And starting at Line 24, the question,

19 Doctor, is, "Why did Ms. Jones' capsule not hold the implants

03:18 20 in place between the time you performed it in December of

21 2004" -- which you know is wrong. It's actually November of

22 2004, correct?

23 A. Correct.

24 Q. -- "and when you saw her again in August of 2005?"

03:18 25 And could you read the answer which starts on

03:18 1 Page 22, Line 3?

2 A. "Well, I can't say exactly. It's thinned out. It's a thin
3 capsule that doesn't have the integrity to hold the weight of
4 the implant."

03:18 5 Q. Thank you, Doctor.

6 MR. KELLY: I think we need an optional completeness
7 on that one, your Honor.

8 MR. HEDGES: That's fine. Go ahead.

9 MR. KELLY: May I approach?

03:18 10 THE COURT: He says it's okay.

11 You can approach the witness, you mean?

12 MR. KELLY: Yes, sir.

13 THE COURT: Okay.

14 MR. KELLY: Doctor, if we continue reading, it says,
03:19 15 "At the time that you saw her in August of 2005, was the
16 deformity one that you would have anticipated to be
17 naturally -- to have naturally progressed from when you did the
18 augmentation in November of 2004?"

19 THE WITNESS: I said, "Okay. So, you're asking me is
03:19 20 it normal for her to look the way she did in August if I had
21 done her augmentation in November?"

22 MR. KELLY: "Yes."

23 THE WITNESS: And I said, "No, that's not normal.
24 It's not normal for me. It's very uncommon in my practice for
03:19 25 that to happen."

03:19

1

MR. KELLY: "Especially in so short a time?"

2

THE WITNESS: "Correct."

3

MR. KELLY: Thank you, your Honor.

4

MR. HEDGES: Let's put up KBR 70 on Page 35.

03:20

5

Let's highlight the first line.

6

BY MR. HEDGES:

7

Q. Doctor, can you translate that out of doctor print?

8

A. Yes. It says, "19 year old White female with complaint of small breasts. Patient desires improvement."

03:20

10

Q. And Mr. Kelly put up the pictures of Ms. Jones

11

pre-operative. And you would, being a plastic surgeon,

12

describe her breasts at that time as small?

13

A. Correct.

14

Q. Is she also a fairly small woman?

03:20

15

A. She is petite, yes.

16

Q. Does the -- what kind of breast implants do you typically use?

17

18

A. Nowadays I use silicone implants mostly.

19

Q. Made by what company?

03:21

20

A. Mentor.

21

Q. Doesn't Mentor have guidelines for women of a certain

22

height, weight, et cetera, for what size of implant they would recommend?

23

24

A. They may have recommendations, but they always defer to the plastic surgeon's training.

03:21

25

03:21 1 Q. And are there recommendations for a 5'6", 120-pound,
2 19-year-old with small breasts, somewhere in the size of 300 to
3 350 cc's?

4 A. I've never seen those recommendations.

03:21 5 Q. You've never seen Mentor's recommendations?

6 A. Not to tell me that that patient should have 300 to 350 cc
7 implants. Because even though she's 5'6", her chest might be
8 wider. All women have different shaped chests, so you can't
9 put a specific size to a specific weight and height every time.

03:22 10 There's very different chest shapes and sizes.

11 Q. But a larger woman with a larger chest size, presumably
12 broader shoulders, will better support larger implants than a
13 smaller or, to use your word, petite woman, generally?

14 A. Not necessarily.

03:22 15 Q. Okay.

16 A. Not necessarily.

17 Q. So, do you think that the 400 to 450 cc implants that you
18 placed in Ms. Jones were appropriate for a person of her size?

19 A. I think they were very appropriate.

03:22 20 MR. HEDGES: I pass the witness, your Honor.

21 THE COURT: Okay. Mr. McKinney? Ms. Cullen?

22 MS. CULLEN: Yes.

23 **CROSS-EXAMINATION**

24 Q. Dr. Lahiri, my name is Sharon Cullen; and I represent
03:23 25 Charles Bortz in this lawsuit.

03:23 1 A. Okay.

2 Q. I wanted to revisit with you a little bit. You were kind
3 enough to show us where, in the progression from outside to
4 inside, the implant goes; that being under the pectoralis minor
03:23 5 and above the intercostals and ribs.

6 Tell us how you go about placing the implant
7 under the muscle.

8 A. Meaning the exact technique?

9 Q. I understand that you use a spacer in order to create a
03:23 10 space under that muscle and then you slide the implant up under
11 the muscle. Is that correct?

12 A. Correct.

13 Q. And the muscle would keep it from coming up, where it's
14 attached. Is that correct?

03:23 15 A. Putting it under the muscle isn't really to keep it from
16 rising up. It's for other reasons. But basically, yes, the
17 inferior edge of the muscle is elevated; and you slip the
18 implant underneath it, correct.

19 Q. Is the implant put under the muscle primarily for cosmetic
03:24 20 reasons, it just looks more natural that way?

21 A. It looks more natural. And actually, the risk of them
22 getting hard in the future is much less when you put them under
23 the muscle.

24 Q. But one of the practical effects of placing the implant
03:24 25 under the muscle is that there is the muscle and, the way the

03:24 1 muscle is attached, that keeps the implant from working its way
2 upward over time?

3 A. I don't -- I've never heard it put that way, no.

4 Q. All right. Well, let me ask you this.

03:24 5 A. Okay.

6 Q. What keeps it -- all right. You've got it between -- the
7 muscle comes across, and you've got this implant. What is
8 beneath -- and I don't mean toward the inside of the body. I
9 mean, if the woman were standing up, what is beneath the

03:24 10 implant that keeps it from just slipping down under the skin?

11 A. Well, there's several factors that keep it from slipping
12 down, or bottoming out -- I think you're referring to that --
13 is careful pocket dissection at the time of surgery so the
14 pocket that you create for that implant is just perfectly sized
03:25 15 for it so that there's not any motion and you don't over
16 dissect inferiorly. So, that's one reason.

17 Number 2 is the bottom portion that may not be
18 completely under the muscle still has some thick investing
19 fascia, that's actually from the upper abdomen, which you
03:25 20 maintain, which is the infra-mammary fold, to keep it from
21 bottoming out. So, there's several other layers of tissue
22 that -- at the time of surgery, that I'm very careful to
23 maintain so that the implant doesn't drop.

24 Q. You don't actually sew it in place, do you?

03:25 25 A. No.

03:25 1 Q. And over time, bottoming out can occur because, in fact,
2 the implant begins to separate the skin from the tissue
3 underneath and it literally begins to slide down inside?

4 A. It does.

03:26 5 Q. And would you agree that that's a function, at least in
6 part, of gravity and the force on those tissues that separate
7 the skin from the body?

8 A. It is.

9 Q. And would you agree that the weight of the implant would
03:26 10 have at least some effect on the speed at which that occurs?

11 A. It can.

12 Q. You mentioned that Ms. Jones suffered from a medical
13 condition called "hypoplasia," meaning small breasts?

14 A. Correct.

03:26 15 Q. And I just want to be really clear about this. There are
16 no negative health -- physical health consequences to a woman
17 from having small breasts. Is that correct?

18 A. They can, psychologically.

19 Q. Physically, there are no negative health implications for
03:27 20 having small breasts?

21 A. Not that I know of, no.

22 Q. I just want to visit very briefly the injury to the
23 intercostal muscles during the surgery. You described in your
24 operative note repairing that injury "using a small muscle
03:27 25 flap." Do you recall that?

03:27 1 A. I do.

2 Q. What does that mean? Can you tell us what do you mean that
3 you used a small muscle flap? And where did that muscle flap
4 come from?

03:27 5 A. Well, it's basically just mobilizing part of her
6 intercostal muscle. Because in between the ribs it's very
7 tight; there's not a lot of movement. So, just trying to
8 suture sometimes can be difficult. So, I just mobilized a bit
9 of the actual intercostal muscle into that area and sutured it
03:28 10 in.

11 Q. I realize this is probably an oversimplification, but for
12 those of us who are not physicians, would it be fair to -- I
13 mean, we've all eaten -- it's Texas. We've all eaten ribs.
14 And we know that between the bones there is that sort of shiny,
03:28 15 tough little fibrous thing and then there's a little meat on
16 top. Is that the equivalent of an intercostal muscle for a pig
17 or a cow?

18 A. It is.

19 Q. Okay. And, so, when you say you "mobilized" the
03:28 20 intercostal muscle, do you mean that you pulled some of it
21 loose from the rib?

22 A. Just a little. Probably, you know, 2 to 3 millimeters,
23 just enough to get sutures in place to close that area.

24 Q. When you have to do that, pull some loose and then stitch
03:29 25 it together, is there some -- are there forces on those sutures

03:29 1 from the ribs where the muscles remain attached?

2 A. I'm not quite sure what you mean.

3 Q. It sounds as though there's not really enough muscle to
4 overlap it and sew it like with a hem on a dress.

03:29 5 A. It's tight. Yes, it's very tight.

6 Q. It's tight?

7 A. Uh-huh.

8 Q. Is it prone to tearing, are those sutures prone to tearing?

9 A. Not if you have a good repair at the end of the case. I

03:29 10 mean, on a young, healthy person these things heal very
11 rapidly. So, not in a small injury. And in this circumstance,
12 I would say no.

13 Q. Are you using permanent suture or the sort that dissolve?

14 A. The sort that dissolves over a long period of time.

03:30 15 Q. Given the density of nerve in that area, as Mr. Hedges
16 mentioned, would the fact that sutures are in place and perhaps
17 being subjected to some force, so that there is some pulling,
18 could that explain perhaps some chest pain?

19 A. It can immediately postoperative. But I would not expect
03:30 20 it long term.

21 Q. I'm going to hop back in time a little bit. You mentioned
22 that you finished your residency in plastic surgery, I believe,
23 in 2002. Is that correct?

24 A. Yes.

03:30 25 Q. And you performed the surgery for Ms. Jones in November of

03:30 1 2004?

2 A. Correct.

3 Q. Could you tell us what you did for the two years between
4 your residency and when you did Ms. Jones' surgery?

03:30 5 A. I had started my practice in 2002.

6 Q. Were you a solo practitioner?

7 A. Yes.

8 Q. So, you had been actively practicing as a plastic surgeon
9 on your own, without supervision, for about two years when you
10 did this?

11 A. Two years.

12 Q. Also in your operative note -- and we can pull it up if any
13 of this isn't fresh in your mind -- but I noted a description
14 of a -- of the implant on the right being filled -- actually
03:31 15 we'd best -- because I think there's a typo; so, we best take a
16 look at it.

17 A. Okay.

18 MS. CULLEN: Can we pull up KBR 70 at Page 71, please?

19 BY MS. CULLEN:

03:32 20 Q. On the second paragraph -- no. Actually, the first
21 paragraph, on "Procedure and Detail," the second sentence, "A
22 3-centimeter inferior areolar incision was made using a 15
23 blade, starting on the left side," correct?

24 A. Correct.

03:32 25 Q. So, you began with the left breast?

03:32 1 A. Correct.

2 Q. And then you encountered the unfortunate tear of the
3 intercostal muscle, which you described repairing. And you
4 described creating the subpectoral pocket and repairing the
03:32 5 intercostal. Then the right breast incision is made, correct?

6 A. Yes.

7 Q. All right. And the sizer is placed there with a 450 cc
8 sizer -- filled with 450 cc's. Is that right?

9 A. (No response).

03:33 10 Q. You had already put the sizer on the left. And when we go
11 to the next page, the sizers were removed, then you placed the
12 implants as you described?

13 A. Uh-huh.

14 Q. The sizer on the right breast was removed first. That's
03:33 15 the bottom of that first paragraph on the second page.

16 "Pocket was irrigated, the implant was placed,
17 and it was filled to 450 cc's." This being on the right,
18 correct?

19 A. Correct.

03:33 20 Q. Okay. The next paragraph you say, "The sizer was removed
21 on the right," again?

22 A. Okay.

23 Q. Should that read "left"?

24 A. Yes.

03:33 25 Q. Okay. And on the left the implant was placed and filled to

03:34 1 400 cc's. And my question to you is this. Why did you fill to
2 450 cc's on the right and only 400 on the left?

3 A. It's not uncommon in women that have pretty significant
4 chest wall asymmetry; and, so, that's why I place sizers first,
03:34 5 and sit them up so -- when you sit them up, you can really see
6 asymmetry more. So, I put more on that side because it was
7 smaller, meaning it needed more volume on that side.

8 Q. This was not related in any way to the injury to the
9 intercostal muscle?

03:34 10 A. No.

11 Q. I next want to look at your first post-op follow-up visit
12 with Ms. Jones, which is KBR 70 at Page 87. The surgery had
13 been on November 23rd, and you see her for the first time on
14 December 6th of '04.

03:35 15 MS. CULLEN: And if we could highlight that note?

16 Thank you.

17 BY MS. CULLEN:

18 Q. And, Doctor, I apologize; but I have a little difficulty
19 reading your handwriting. Would you be kind enough to read
03:35 20 that note for us?

21 A. It says, "Follow-up. Some pain in the left chest. No
22 shortness of breath."

23 Q. Let me stop you right there, if you would.

24 She only complained of pain on the left?

03:35 25 A. Yes.

03:35 1 Q. Is that associated with the intercostal muscle or something
2 else?

3 A. It's hard to say. I mean, sometimes -- well, actually,
4 frequently women will have one breast that's more sore than the
03:35 5 other. Could be related to that or it could be that this was
6 just the side she had more pain in.

7 Q. And you're unable to opine as to any particular cause for a
8 woman having more pain on one side than the other?

9 A. No.

03:36 10 Q. Fair enough.

11 All right. Doctor, if you would continue to read
12 that note.

13 A. "She was unhappy with smaller size. I explained she has
14 very large implants. She understands."

03:36 15 Q. Okay. Let me stop you there.

16 Does this indicate that Ms. Jones still felt that
17 her breasts were too small after the implants?

18 A. She -- yes, at that point, she was -- she was unhappy with
19 it.

03:36 20 Q. And you --

21 A. At that point, yes.

22 Q. You explained that the implants were actually -- your words
23 are -- "very large"?

24 A. They're very -- they were very large implants for that,
03:36 25 yeah.

03:36 1 Q. I don't know anything about implant sizes. Can you tell us
2 what the range of sizes is?

3 A. They range from 200 to 800.

4 Q. And she --

03:36 5 A. So, these are right in the middle of the size, actually.

6 Q. For those of us who are more familiar with bra sizes than
7 we are with cc's, can you give us some idea what is a 450 cc
8 implant equivalent to?

9 A. It varies from person to person, like we discussed chest
03:37 10 size. So, 450 can be a full C; in some women it can be a small
11 C; in some women it can be a small D. So, it varies.

12 Q. On someone the size of Ms. Jones, how would you --

13 A. I would say she was a full C, small D.

14 Q. Would you go ahead and continue reading that note, please?

03:37 15 A. "She feels right breast is bigger."

16 Q. That was the one that you had filled to 450 cc's. Is that
17 correct?

18 A. Correct.

19 Q. Please continue.

03:37 20 A. "Both breasts, right infra-mammary fold tight." So it was
21 actually short on the right.

22 Q. Is the infra-mammary fold -- we've been talking about that
23 for awhile now, and I would just like to be sure that we're not
24 misunderstanding you.

03:38 25 Is the infra-mammary fold simply the crease at

03:38 1 the very bottom of a woman's breast?

2 A. Yes.

3 Q. All right. Please continue.

4 A. "Good symmetry, size and shape; follow-up two weeks;
03:38 5 massage."

6 And then I wrote, "Discussed with mother, who was
7 present."

8 Q. Had you discussed with Ms. Jones the size implants or --
9 actually, most patients, I would assume, don't really know what
03:38 10 size implant they need. Would that be fair?

11 A. We discuss it in detail in pre-op. We have them try them
12 on several times so there's no surprise when it comes to
13 post-op care.

14 These issues are very common in patients. I
03:38 15 would say probably 90 percent of patients are -- either think
16 their implants are too big or they're too small. And it takes
17 them three to six months to kind of decide, you know, if they
18 like them when they like them. So, this is actually a very
19 common scenario. So, this isn't unusual, this whole thing that
03:39 20 we're describing in this note.

21 THE COURT: How common is it for women who had breast
22 augmentation to ask that the implants be removed?

23 THE WITNESS: Rarely.

24 THE COURT: Less than 10 percent?

03:39 25 THE WITNESS: Less than 1 percent.

03:39 1 BY MS. CULLEN:

2 Q. Is there a limit to how large an implant should be placed
3 on a particular woman?

4 A. Well, I mean, the largest implant made is 800 cc's. So,
03:39 5 there's one limit. You know, it's all about proportions, when
6 I see patients in my office, you know, their shoulders, their
7 hips, their chest width.

8 Someone described that her size should be a 350
9 cc implant. It just doesn't happen that way. There's just so
03:40 10 much variety in chest walls. So, there's no too big, too
11 small. It's what's appropriate for that specific person.

12 Q. Well, let me ask you, I want to specifically talk about not
13 the esthetics, not what someone wants or what you believe would
14 be attractive in proportion to the body.

03:40 15 But in physical, medical, mechanical terms, is
16 there a limit to how large an implant can be expected to
17 perform acceptably on a given woman, especially a small one?

18 A. I mean, it's hard to say. I mean, there aren't any -- it's
19 just hard to say exactly. You know, is a 300 cc going to
03:40 20 perform better than a 450? I don't know. There's just so much
21 variety in the human body. I couldn't tell you that
22 specifically.

23 I can tell you, yes, I probably wouldn't put an
24 800 cc implant in a 5'4" or -6" person. But I just -- I can't
03:41 25 tell you that specifically.

03:41 1 Q. What are the factors that you consider, other than
2 esthetics, when it comes to, as a practical matter, is this
3 going to work for a reasonable length of time before bottoming
4 out? What factors do you look at?

03:41 5 A. You look at the quality of their tissues; if they have, you
6 know, good integrity in their skin, no stretch marks, they
7 haven't had children, chest width or health issues. I mean,
8 all those things are put into the factor of deciding on
9 implants.

03:41 10 If a woman's skin is very thin right before
11 surgery, I'm very honest to tell them that their skin is
12 probably not going to hold up long term, that they may need
13 some kind of revision.

03:42 14 So, again, there's -- just so many different
15 issues come into play as far as how long an implant is going to
16 hold up, how big an implant can go. I'm not a doctor that
17 advocates large implants, for that reason.

03:42 18 And, you know, I may have put that in her note
19 that I thought they were very large; but, honestly, I think
20 they were a good size for her.

21 Q. When skin doesn't hold up -- I believe that was the phrase
22 you used -- bottoming out is the result. Is that correct?

23 A. (No response).

03:42 24 Q. Mr. Kelly showed you your note about her breasts being
25 perfect on March 5th of 2005, I believe. You were pleased with

03:42 1 your work? It was a good outcome for you?

2 A. Yeah. Honestly, that's not a word I typically use. But
3 she had an excellent result, absolutely.

4 Q. Why wouldn't you take pictures at that point, when
03:43 5 everything was perfect, to keep in your record?

6 A. You know, I just didn't do it at that time in my practice.
7 I usually waited until their scar faded a little bit more. And
8 that was usually at about six to nine months.

9 Q. Tell me something, Doctor. I mean, this has been six years
03:43 10 ago now. And frankly, I don't recall off the top of my head
11 just when it was that your records were subpoenaed in this
12 case.

13 How can you remember when you took photographs
14 of -- is there -- are there dates in your chart someplace, that
03:43 15 we've missed, where it says when you took pictures?

16 A. No. But when we take them, we denote the dates that we
17 take photos.

18 Q. Where? Where do you make that note?

19 A. Well, it may not be in the charts. We may write it on the
03:43 20 back of the photos. Or it may be in either my notes somewhere.

21 Q. How do you know when you took the photos post-implant of
22 Jamie Jones?

23 A. How do I know?

24 Q. Yes, ma'am.

03:44 25 A. I believe I did write in the notes that "photos were taken

03:44 1 today."

2 Q. And if we don't find notes about when the photos were
3 taken, can you enlighten us? Have you reviewed this chart in
4 preparation for coming here today?

03:44 5 A. I have.

6 Q. Did you?

7 A. Yes.

8 Q. Did you notice, when you reviewed your chart, whether there
9 were any notes, either on the backs of the photographs or in
10 your chart, about when you took the photos?

11 A. I don't remember right now, but I'm sure there are on
12 there.

13 Q. To follow up on an issue raised by Mr. Hedges with you, if
14 a woman suffered severe trauma which she described as a vicious
15 attack, severe trauma to her breasts, he asked about what one
16 might expect to see the next day.

17 And what I would like to take up with you is what
18 one might expect to see one week later. One week after a
19 severe trauma, especially one bad enough to tear the capsules
20 around breast implants, what would you expect to find at that
21 point?

22 A. I would envision swelling. I would envision bruising,
23 soreness, redness.

24 Q. You would expect there to be pain a week later?

03:45 25 A. I would expect it, yes.

03:45

1 Q. And visible bruising?

2 A. Of some sort. I mean, it's hard to say exactly if it would
3 be just redness then or -- because sometimes if a capsule is
4 torn the bruising is internal.

03:46

5 Q. But you would expect there to be some visible bruising on
6 the outside?

7 A. Something.

8 Q. And pain?

9 A. I would expect.

03:46

10 Q. And swelling?

11 A. (Indicating).

12 Q. Now, I want to go to the office note that you made when
13 Ms. Jones came to see you after returning back to the United
14 States from Iraq. I believe that was on August 15th.

03:46

15 MS. CULLEN: If we could look, please, at KBR 70 at
16 Page 86, please.

17 BY MS. CULLEN:

18 Q. And again, Doctor, I would appreciate your help in reading
19 this note.

03:46

20 MS. CULLEN: Could you highlight for us -- there we
21 go.

22 BY MS. CULLEN:

23 Q. Can you read your note for us?

24 A. It says, "Plastic surgery follow-up. Patient here for
25 follow-up after a short period in Iraq. Patient states she was

03:47

03:47 1 sexually assault, with severe trauma to breasts and other areas
2 which have been treated, except for the breasts."

3 Q. Let me stop you there.

4 Did she tell you what injury to other parts of
03:47 5 her body had been treated?

6 A. She did not.

7 Q. All right.

8 A. That I remember.

9 Q. Okay. Please continue.

03:47 10 A. "Patient states that her breasts were severely traumatized
11 during the incident. She states she has severe bruising, pain
12 both breasts. She has residual pain in left breast. She is
13 here to evaluate breasts."

14 Q. All right. Tell me what's the difference -- or can you
03:47 15 explain to us what do we mean here when we say "pain in both
16 breasts" and then "residual pain in left breast"?

17 A. I believe what I said -- what I meant in the first sentence
18 is that she stated that her breasts were severely traumatized
19 during the incident and at that time they were severely bruised
03:48 20 and had pain in both breasts. Now she has residual pain in the
21 left breast.

22 Q. All right. At this point, approximately two weeks and
23 maybe two days after when she says she was assaulted and
24 traumatized, at that point in time would you anticipate being
03:48 25 able to see bruising, swelling, whatever?

03:48

1 A. Possibly.

2 Q. Is it true that what you have just read to us is you
3 writing down what Ms. Jones said to you?

4 A. Yes.

03:49

5 Q. This is not in any way your interpretation of her
6 situation; it's simply what Ms. Jones reported to you?

7 A. Correct.

8 Q. If you would continue reading.

9 And take a look at it first and tell us is the
10 next section your record of what you saw.

03:49

11 A. Yes.

12 Q. All right. Please read that for us.

13 A. It's, "Bilateral breast." It says, "Severe deformity, left
14 breast, loss of infra-mammary fold, flattened appearance,
15 tenderness on all areas, no masses and no lymphadenopathies."

03:49

16 Q. You don't mention bruising or swelling. Is it fair to
17 assume from that that you did not see bruising or swelling?

18 A. Yes.

19 Q. You mention "severe deformity." Is there something about
20 this note that is different from bottoming out?

03:49

21 A. (No response).

22 Q. Was that a bad question? Shall I rephrase that?

23 Would you agree that the observations recorded in
24 this note describe bottoming out?

03:50

25 A. It does. I -- what I do remember of this is I was shocked

03:50 1 when I saw her breasts, how different they looked from when I
2 saw her.

3 Q. Because you had been so proud of the perfect job?

4 A. Well, yeah, I mean, she had a nice result. So, I was
03:50 5 shocked.

6 Q. Do you typically describe bottoming out to your patients as
7 "deformity"?

8 A. You know, not necessarily describe it to patients that way.

9 Q. Do you describe it in your notes that way, typically?

03:50 10 A. Typically, I'll write it in my notes or -- or I can -- I'll
11 tell patients that, also. Patients are very savvy nowadays,
12 also, so --

13 Q. So, you refer to it as a "deformity" rather than as
14 "bottoming out"?

03:51 15 A. Could be either/or, yes.

16 Q. Can you tell me whether you more frequently refer to it as
17 "bottoming out" or --

18 THE COURT: Are you now asking about her conversations
19 with patients or her notes?

03:51 20 MS. CULLEN: Her notes.

21 THE COURT: Her notes.

22 A. Well, you know, I may not have written it as "bottoming
23 out" at that point because I was just a little shocked in how
24 the breasts looked. So it may have been, "Wow, these are
03:51 25 deformed."

03:51

1 BY MS. CULLEN:

2 Q. It was a shocking story, wasn't it?

3 A. Yes.

4 Q. And, of course, you're concerned for your patient?

03:51

5 A. Absolutely.

6 Q. And that it was a story that certainly would elicit
7 sympathy and concern?

8 A. Yes. But these are objective findings at the time of the
9 exam.

03:51

10 Q. We're all human and we're all affected by those --

11 A. Sure. Sure.

12 Q. -- those kinds of terrible, traumatic stories.

13 A. Absolutely.

14 Q. Would you read the next portion of your note, please?

03:52

15 A. It says, "Right breast deformity not as severe, moderate,
16 loss of infra-mammary fold, mild tenderness, no masses and no
17 lymphadenopathy."

18 Q. Would it be fair to say that the condition of the right
19 breast was a similar type problem but less severe?

03:52

20 A. Correct.

21 Q. Would you continue reading your note, please, ma'am?

22 A. It says, "Implants intact, breasts significantly changed
23 since last visit, deformity of bilateral breasts, assume
24 secondary to trauma."

03:52

25 Q. Let me stop you there.

03:52 1 Why did you assume what you were seeing was
2 secondary to trauma?

3 A. Just from prior experience of seeing patients this far from
4 surgery. Being in this state is very unusual.

03:53 5 Q. One doesn't often, frequently see bottoming out of this
6 degree nine months post-op. Is that fair?

7 A. I don't see it in my practice, in my patients.

8 Q. In nine months?

9 A. In nine months.

03:53 10 Q. What's the shortest amount of time in which you have
11 recognized bottoming out, either from your own surgery or
12 another surgeon's work?

13 A. It's rare that I have seen any bottoming out in my
14 patients. I've seen other surgeon's bottoming out. But I
03:53 15 just -- you know, I can't give you an example of how long.

16 It's hard to say.

17 Q. You can't recall whether you've ever seen another surgeon's
18 work bottom out, if I may use that expression, in nine months?

19 A. Could be. If so, nine months would be pretty early.

03:53 20 That's pretty early.

21 Q. If Ms. Jones had not told you she had been severely
22 assaulted and traumatized in Iraq, if you had not heard any
23 story of that sort from her, what would your diagnosis of the
24 problem have been on August 15th?

03:54 25 A. The description of her breasts would be the same.

03:54 1 Q. But what cause would you have attributed to it?

2 A. I honestly would have wondered what's up. Because
3 honestly -- and, you know, I'm not here to brag about that I'm
4 the best plastic surgeon in the world and this doesn't happen
03:54 5 to me. It's just very rare that I see bottoming out in my
6 patients. And to see this at nine months, something --
7 something would have had to happen, other than just normal
8 progression of breast implants.

9 Q. You mentioned poor surgical technique as one of the causes
03:55 10 of bottoming out. I assume that you may have seen that happen
11 with other surgeons' work?

12 A. I've seen it.

13 Q. And it's certainly upsetting to see someone, whose work
14 appeared to have been perfect, in this sort of condition nine
03:55 15 months later. Fair enough?

16 A. It's surprising, yes.

17 Q. You could not actually reach a medical opinion, based upon
18 what you saw on August 15th, 2005, that Jamie Jones had in fact
19 been raped or attacked?

03:55 20 A. I personally couldn't say that because I wasn't there. I
21 just could make the observation.

22 Q. To reach the conclusion in your notes that the malposition
23 problem with Jamie's breast was a result of trauma, you had to
24 rely entirely upon what she told you, correct?

03:56 25 A. Not entirely. I mean, just intuitively, something happened

03:56 1 to her breasts for them to look like that.

2 Q. What other kind of trauma have you seen cause bottoming
3 out?

4 A. Other trauma that can cause breast deformity or bottoming
03:56 5 out, motor vehicle crashes.

6 Q. Actually, you've never seen trauma cause bottoming out in
7 any of your patients, have you?

8 A. But in medical records --

9 Q. In medical literature, yes.

03:56 10 A. That's right.

11 Q. Yes. Thank you.

12 And in the medical literature, what have you seen
13 as traumatic causes for bottoming out?

14 A. Most commonly is -- not that it's common -- is motor
03:56 15 vehicle crashes.

16 Q. Why would that cause bottoming out?

17 A. It's just the compression of the breasts.

18 Q. By the seat belt?

19 A. Can be seat belt. It can be not wearing a seat belt. Can
03:57 20 be hitting a dashboard.

21 Q. Doctor, I want to take a look -- oh, did we finish? I
22 don't think we finished.

23 Would you finish reading your note, please,
24 ma'am?

03:57 25 A. Says, "Patient will need removal and replacement of

03:57 1 implants, reconstruction of infra-mammary fold, bilateral. She
2 understands the risks and benefits and patient will plan
3 surgery in October for inflammation to subside. She will
4 require at least three to six months' recovery without
03:57 5 strenuous activities."

6 Q. I wanted to ask you, after your prior surgery it was
7 three-plus months when you were saying her breasts were
8 perfect. Here you're saying it will take three to six months'
9 recovery.

03:57 10 What is a typical recovery period following a
11 breast augmentation?

12 A. Well, typically, they are feeling much better about two
13 weeks. In my practice, I don't like for them to do any
14 strenuous activities or heavy lifting for about six to eight
03:58 15 weeks.

16 Q. At what point is the bruising, swelling and pain gone,
17 typically?

18 A. Typically, there isn't any bruising with breast
19 augmentation. The swelling and pain, most of it is gone by
03:58 20 about two to four weeks.

21 Q. Why do you wait six months to take post-op photographs?

22 A. That was just what I did in my practice because I wanted
23 their scar to fade a little bit more.

24 Q. Does it take longer to recover from a capsulorrhaphy, or a
03:58 25 repair of bottoming out, than it does to recover from the

03:58

1 initial augmentation surgery?

2 A. It does.

3 MS. CULLEN: I would like to now go to KBR 70 at
4 Page 44.

03:59

5 We would like to offer Bortz 192 into evidence.

6 MR. MCKINNEY: It's in.

7 MS. CULLEN: Would you put up --

8 MR. KELLY: I still have no objection.

9 BY MS. CULLEN:

04:00

10 Q. Doctor, is that your -- that's not your handwriting, is it?

11 A. No.

12 Q. If Ms. Jones called your office, would this likely be one
13 of your staff who took this note?

14 A. Yes.

04:00

15 Q. Can you read that note?

16 A. It says, "Jamie Jones called per her attorney" -- something
17 "not to schedule" -- oh, "to include details in your report,
18 only that she was raped in Baghdad and has breast trauma."

19 Q. Does that say, "Do not include details in your report, only
20 that she was raped in Baghdad and has breast trauma"?

04:00

21 A. Yes.

22 Q. Do you recall being requested by Ms. Jones to write a
23 letter for her concerning those issues?

24 A. Not relating to this letter. I don't -- I don't remember
25 this note.

04:00

04:01 1 MS. CULLEN: Let's look at KBR 70 at Page 27.

2 BY MS. CULLEN:

3 Q. And this is a letter dated three days after the date of the

4 telephone note.

04:01 5 A. Okay.

6 Q. All right. Do you recall writing this letter?

7 A. Yes.

8 Q. Did you write this letter at Ms. Jones' request?

9 A. Yes.

04:01 10 Q. And in it you state that she was seen in your office on

11 8-15-05 due to the rape that occurred in Baghdad resulting in

12 trauma to her chest cavity. That certainly implied opinion

13 that trauma to her chest cavity was due to a rape that occurred

14 in Baghdad is based entirely on the story that Ms. Jones told

04:02 15 you, right?

16 A. Yeah.

17 Q. And would you please explain to us in layman's terms what

18 is the "chest cavity"?

19 A. It's just the chest.

04:02 20 Q. It's not the inside of the chest, where the organs are, the

21 chest cavity?

22 A. Well, I mean, what I meant in this is just the chest.

23 Q. Do you think that perhaps someone else prepared this letter

24 for your signature?

04:02 25 A. Well, if someone else prepares it, I dictate it to them how

04:02 1 it's written. So --

2 Q. You don't have any problem with its expression of "trauma
3 to the chest cavity"?

4 A. No.

04:02 5 Q. All right. What trauma occurred to the chest cavity, in
6 your opinion?

7 A. Obviously, I wasn't there to say if trauma did happen or
8 not; but this note was requested so that she -- they wanted to
9 send her immediately back to work over there. And, so, I
04:02 10 remember writing this letter so that she could actually stay
11 here and recover.

12 Q. All right. So, this was written at Ms. Jones' request, and
13 she explained to you that she needed you to say this so that
14 she wouldn't be forced to go right back to work in Iraq. Is
04:03 15 that right?

16 A. She didn't ask me to write anything specifically. It was
17 that she had had some significant trauma and I was giving her
18 some time to stay in the United States before going back.

19 Q. And as it notes in the phone note, the letter does reflect
04:03 20 that she was raped in Baghdad and, as a result, suffered
21 trauma. Is that right?

22 A. I'm sorry. Say that again.

23 Q. In fact, your letter does reflect what was requested in
24 the phone note, that she was raped in Baghdad and she has
04:03 25 trauma, true?

04:03

1 A. That's what it says.

2 MS. CULLEN: Let's look at KBR 70 at Page 28, another
3 letter.

4 I'm sorry, did I say Page 28? I meant Page 26.

04:04

5 That's the one.

6 BY MS. CULLEN:

7 Q. In this letter to Ms. Falanga -- did you understand who
8 Ms. Falanga was when you wrote this letter?

9 A. I don't remember Ms. Falanga.

04:04

10 Q. Department of State employee involved in the investigation
11 of the events in Iraq.

12 A. Okay.

13 Q. Does that refresh your memory at all?

14 A. (No response.)

04:04

15 Q. You may not have known who she was at the time you wrote
16 the letter.

17 A. I don't remember Ms. Falanga. Sorry.

18 Q. Okay. Fair enough. You're telling Ms. Falanga that
19 Ms. Jones had been in your office on August 15th of 2005, that
20 she presented with a deformed left breast and loss of her
21 infra-mammary fold, which is the bottoming out that we've been
22 talking about, right?

04:05

23 "She complained of pain in her left chest wall,"
24 is this the residual pain on the left side, that we saw
25 reflected in your office note?

04:05

04:05

1 A. From after the surgery or after the --

2 Q. After Iraq, your office note from when she came to see
3 you --

4 A. Yes.

04:05

5 Q. -- after returning from Iraq?

6 A. Yes.

7 Q. Okay. Can you clarify for me, was Ms. Jones complaining of
8 pain in the breast or pain in the chest wall or how do you
9 distinguish between the two?

04:06

10 A. It's hard to say. It is hard to distinguish at times. It
11 just hurts. So, it could have been breast, could have been
12 chest wall, could have been both. It's semantics. It hurt on
13 the left side.

14 Q. Tell me, anatomically, what all is included in the chest
15 wall.

04:06

16 A. The breast.

17 Q. Would it be that entire list that we have up there?

18 A. Absolutely.

19 Q. Right down through the pleura?

04:06

20 A. Yes.

21 Q. So, any one of those layers --

22 A. Right.

23 Q. -- could be the source of the pain?

24 A. And, frequently, at the time of the visit it's difficult to
25 determine exactly where that pain is.

04:06

04:06 1 Q. It's not always easy to pinpoint where pain is originating
2 from, is it?

3 A. It's not.

4 Q. This -- the last sentence in this note, I'm skipping down
04:06 5 to -- although, certainly, if there's anything that I'm
6 skipping that you think is relevant to my questions, you please
7 call it to my attention.

8 But the last sentence says, "This deformity does
9 not occur in a normal post-operative fashion in a breast
04:07 10 augmentation."

11 Have I understood your testimony correctly that,
12 in fact, bottoming out does occur post-operatively but
13 generally over a longer period of time? Is that fair?

14 A. That's fair. It can; it doesn't always. Yes.

04:07 15 THE COURT: What percentage of the cases would you
16 say? Just an order of magnitude. Order of magnitude less than
17 20 percent, more than 40 percent?

18 THE WITNESS: I would say less than 20 percent.

19 BY MS. CULLEN:

04:07 20 Q. Would you agree that a normal postoperative result includes
21 an entire range, or continuum, of results from perfect to not
22 so great but acceptable and probably most surgical outcomes
23 fall somewhere in the middle of that range?

24 A. I think it depends on -- especially with breast
04:08 25 augmentation -- what a woman looks like beforehand.

04:08 1 Q. So, the post-op result is somewhat predictable for an
2 experienced surgeon?

3 A. I would agree with that.

4 THE COURT: Does the results in a breast augmentation
04:08 5 depend much on the overall health of the patient, including
6 mental health?

7 THE WITNESS: I'm sorry. Say that again.

8 THE COURT: Do the results to be expected in a breast
9 augmentation depend largely, somewhat, or not at all on the
04:08 10 overall health of the patient, including her mental health?

11 THE WITNESS: It does. I mean, if you have many
12 medical problems, your results won't most likely be as good.
13 Mental health is very important in any type of surgery,
14 especially plastic surgery.

04:09 15 BY MS. CULLEN:

16 Q. And, Doctor, would you agree that occasionally,
17 unfortunately, a patient has a bad result even with all due
18 care on the part of the surgeon?

19 A. It can happen.

04:09 20 Q. You've discussed the difficulty with repairing bottoming
21 out and how it's likely to recur in many instances,
22 particularly when the repair is done by going in, as
23 Dr. Ciaravino did, and putting in some stitches to try to keep
24 it from sliding down.

04:10 25 Unsophisticated but I hope reasonably accurate

04:10 1 for those of us who aren't doctors.

2 Would repeat problems with breast implants, such
3 as bottoming out and even complaints of rippling, would those
4 sorts of problems be less likely to recur with smaller size
04:10 5 implants?

6 A. It can.

7 MS. CULLEN: I'll pass the witness.

8 Thank you very much, Dr. Lahiri.

9 THE WITNESS: You're welcome.

04:10 10 THE COURT: Can we excuse the witness?

11 MR. KELLY: I have some redirect, your Honor.

12 **REDIRECT EXAMINATION**

13 BY MR. KELLY:

14 Q. Would Dr. Ciaravino have ever had to have done surgery at
04:10 15 all, Doctor, if there hadn't been some trauma?

16 A. I don't believe so.

17 Q. You said you were shocked when you saw Ms. Jones when she
18 returned from Iraq?

19 A. Uh-huh, yes.

04:11 20 Q. Is it fair to say, based on what you said, that that's
21 because her healing process was actually on an upward
22 trajectory until she went to Iraq?

23 A. Absolutely.

24 Q. In fact, just coincidentally, when you saw her in August of
04:11 25 2005 after she returned, that was about at the nine-month

04:11 1 period after you had done the surgery, wasn't it?

2 A. Correct.

3 Q. You should have been taking your success photographs that
4 month?

04:11 5 A. Right.

6 Q. Instead you were looking at the post-trauma result?

7 A. (No response.)

8 MR. KELLY: Can we put that Page 26 of KBR -- is it
9 70 -- back up?

04:11 10 Just blow that whole thing up, if you could,
11 Bill.

12 That other page was it, I thought. That's 47,
13 Page 26. I thought you just had it.

14 BY MR. KELLY:

04:12 15 Q. Okay. While he's finding that one, Doctor, you were asked
16 a lot of questions about this repair of the intercostal muscle
17 during the original breast augmentation. Did you have a good
18 repair?

19 A. I did.

04:12 20 Q. How certain are you that that's not what caused the trauma
21 or the -- excuse me -- that that's not what caused the results
22 that you saw in August?

23 A. I'm almost 100 percent sure.

24 Q. In fact, that only happened on the left side, right?

04:12 25 A. Correct.

0 4 : 1 2 1 Q. We had some injury to the right side of Jamie's chest,
2 didn't we?

3 A. That I could tell, absolutely.

4 Q. No way that's related to the intercostal injury that
0 4 : 1 3 5 occurred --

6 A. Right.

7 Q. -- during the surgery?

8 Okay. You started to tell us about the negative
9 psychological implications of hypoplasia, and I don't think you
0 4 : 1 3 10 got to finish that answer. I would like to give you an
11 opportunity to do that.

12 What are the negative psychological implications,
13 in your experience, of hypoplasia?

14 A. Well, obviously, I see a lot of young women, older women,
0 4 : 1 3 15 women of all ages that come into my practice; and they're very
16 distressed, you know. They don't want to look at themselves in
17 the mirror; they don't want their husband or boyfriend to see
18 them. It's very anxiety provoking for them.

19 It may not be a medical necessity to have a
0 4 : 1 3 20 breast augmentation; but for women, it's a major part of being
21 a woman and being feminine. I do quite a bit of breast
22 reconstructions for cancer in my practice. It's an important
23 part of being a woman in our society and I -- I don't think
24 that we should ever belittle that procedure. I think it's an
0 4 : 1 4 25 important procedure, and it makes women feel better about

04:14 1 themselves psychologically and physically.

2 Q. You were asked some questions by Ms. Cullen about the
3 condition of bottoming out is caused sort of when the skin
4 doesn't hold up, I think is the phrase that she used.

04:14 5 And you said that there were -- or I wrote down
6 three of the different factors that go into that. One of them
7 was gravity, one of them was force, and one of them was the
8 weight of implants. Do you remember that testimony?

9 A. Yes.

04:14 10 Q. Are there any other factors that you consider as far as
11 whether or not the skin doesn't hold up?

12 A. Those are the main reasons. I can't think of anything else
13 right now.

14 Q. And here's -- gravity, I think you said if we just rely on
04:15 15 gravity, it's going to take -- did you say ten years or so?

16 A. Usually it's a long period of time for gravity.

17 Q. Let's talk about force. Force can speed up that process,
18 can't it?

19 A. Absolutely.

04:15 20 Q. And is it fair to say that more force can speed that
21 process up more quickly?

22 A. Yes.

23 Q. You were also asked about -- in response to some of
24 Mr. Hedges' questions, you were asked about the Mentor
04:15 25 recommendations to breast implants.

04:15 1 Is it fair to say, Doctor, that if you're going
2 to evaluate a patient and determine what the best procedure of
3 any kind is, medically, that you have to actually look at the
4 patient?

04:15 5 A. Absolutely.

6 Q. Is that why we rely upon doctors?

7 A. Absolutely.

8 Q. Can a doctor fairly evaluate a patient simply by looking at
9 a manual or records?

04:16 10 A. No.

11 Q. We have to rely upon your professional experience in
12 evaluating?

13 A. Absolutely.

14 Q. You were asked if Jamie had thin tissue. Do you recall
04:16 15 that?

16 A. Uh-huh.

17 Q. And you wrote -- I wrote you responded, "She does now,
18 yes." Do you recall that?

19 A. She does.

04:16 20 Q. Can you explain what you meant by that?

21 A. Well, what I meant is that initially, when I first met her
22 and she was my patient, she had excellent quality of tissues;
23 and now she doesn't. That's what I meant. It's thinner now.

24 Q. And I want to talk to you just briefly and see if we can
04:16 25 explain this. There was some questions about the repair work

04:16 1 that Dr. Ciaravino did, and I think there was some implication
2 that Dr. Ciaravino's repair work was not likely to last based
3 upon the way he did it. Do you recall that?

04:17 4 A. There were some questions about that, and my comments were
5 to the fact because I had done those procedures -- you know, I
6 wasn't accusing any doctor of not doing the right thing.
7 It's -- we, as plastic surgeons, struggle to fix that problem.
8 It's extremely difficult.

04:17 9 And, you know, I've done those procedures with
10 sutures; and sometimes they hold up and sometimes they don't.

11 Q. And again, if there hadn't have been the trauma
12 precipitating the need for that surgical repair, there would
13 never have been that struggle in the first place. Is that
14 fair?

04:17 15 A. Exactly.

16 Q. Is it true, Doctor, that areas that are rich in nerve
17 endings actually heal faster than areas of the body that are
18 not rich in nerve endings?

19 A. They can because usually there's a blood vessel with it.

04:17 20 Q. The surgical procedure that you've recommended that Jamie
21 needs to have now, I want to make sure that I -- can you
22 explain it to us again, what it is that she needs?

04:18 23 A. Basically she -- because the distance between the bottom of
24 her areola and her infra-mammary fold is long, it's too long,
25 that needs to be shortened and the implant needs to be

04:18 1 elevated. So, the implant has bottomed out.

2 And the technology nowadays allows us to use
3 something called "Stratus" for cosmetic uses; and it's actually
4 porcine skin or pig skin. And it's sutured to the chest wall,
04:18 5 and it acts as a hammock for that implant. So, it holds it up
6 long term so you're not relying on thinner tissues, a capsule.
7 You are relying on very thick tissue with a lot of integrity.
8 Q. I know I'm skipping around, and I'm doing that because I'm
9 trying to be quick.

04:18 10 A. Sure.

11 MR. KELLY: If we could go to Page 86 of KBR
12 Exhibit -- before we do that, let's go back to that. This is
13 Page 26.

14 BY MR. KELLY:

04:19 15 Q. Doctor, you recall being asked questions about this letter
16 to Ms. Falanga. Let me just ask you this.

17 First of all, I think it says, "her last visit on
18 12-20-05." Is that a typo?

19 THE COURT: We've been over that. Her last visit was
04:19 20 on 12-20-05.

21 MR. KELLY: I think it's --

22 THE WITNESS: '04. I think that says '05.

23 BY MR. KELLY:

24 Q. Other than that typo, Doctor, is there anything in this
04:19 25 letter that is untruthful at all?

04:19

1 A. No.

2 MR. KELLY: Could we go to Page 86 of the same
3 exhibit, please?

04:20

4 Actually, just blow up under the Sections B
5 and -- I believe it's R.

6 There you go.

7 BY MR. KELLY:

04:20

8 Q. Doctor, you were asked some questions about the top part of
9 this and about whether that was Ms. Jones' subjective reporting
10 to you. Do you recall that?

11 A. Yes.

12 Q. Is this the objective portion of the examination?

13 A. Yes.

14 Q. This is your findings?

04:21

15 A. Yes.

16 Q. And you used the word "severe deformity," correct?

17 A. Correct.

18 Q. And you use the words "loss of infra-mammary fold"?

19 A. Correct.

04:21

20 Q. "Flattening" -- I'm sorry. "Flattened appearance,
21 tenderness on all areas." And that's the left breast, correct?

22 A. Correct.

23 Q. On the right breast, again you say "breast deformity
24 and" -- I'm sorry. I can't read the next two words. I have to
25 ask you to read those for me. I apologize.

04:21

04:21 1 A. "Not as severe, moderate, loss of infra-mammary fold, mild
2 tenderness, no masses, no lymphadenopathy."

3 Q. And again, those words, "severe," to describe what happened
4 on the left, those are your words?

04:21 5 A. They're my words.

6 MR. KELLY: Thank you, Doctor. I have no other
7 questions.

8 MR. HEDGES: I think we just want to offer KBR
9 Exhibit 70 into evidence at this time. I think everybody used
04:21 10 it.

11 MR. KELLY: No objection, your Honor.

12 THE COURT: Admitted without objection.

13 MR. HEDGES: We have no further questions, your Honor.

14 THE COURT: Ms. Cullen?

04:22 15 MS. CULLEN: Nothing further, your Honor.

16 THE COURT: You may step down, Doctor. Thank you very
17 much.

18 MR. KELLY: How does the Court wish to proceed, your
19 Honor?

04:22 20 THE COURT: What's coming next?

21 MR. ESTEFAN: Your Honor, we could play a relatively
22 short video deposition; but it's probably going to be longer
23 than the cutoff time we talked about yesterday. And I think
24 you wanted to knock off at 4:30 today.

04:22 25 THE COURT: Not today, no. We didn't need to knock

0 4 : 2 2 1 off today.

2 While we're talking about such things, ladies and
3 gentlemen, we will be shutting down the trial early next
4 Tuesday, the 28th, for a program we do each year for the summer
0 4 : 2 2 5 interns. It will be about a man named Anthony Gray, who spent
6 19 years in prison for a crime he didn't commit.

7 If any of you are so minded -- and it's entirely
8 optional -- you can stay around for the program. We have
9 interesting speakers. Then we'll have wine and cheese
0 4 : 2 3 10 afterwards; but otherwise, you can plan on going home at
11 3:00 o'clock.

12 Monday we won't be able to go past 5:00 for a
13 totally different reason. I've got to perform a wedding here
14 in chambers. So, if any of you need to consecrate your vows,
0 4 : 2 3 15 that's available.

16 Why don't we take a five-minute break?

17 *(Recess taken from 4:23 p.m. to 4:47 p.m.)*

18 *(Jury present)*

19 THE COURT: Members of the jury, please be seated.

20 MR. ESTEFAN: Plaintiff calls Tyler Schmidt by video
21 deposition.

22 *(Videotaped of testimony of Tyler Schmidt playing)*

23 MR. ESTEFAN: That concludes the offer for the
24 plaintiff, your Honor.

0 4 : 4 7 25 THE COURT: Defense then?

04:47

1 MS. CATES: We'll play our cross.

2 *(Videotaped of testimony of Tyler Schmidt playing)*

3 THE COURT: Okay. Is that it?

4 MR. HEDGES: That's it.

04:55

5 THE COURT: Okay. Let's call it quits then, ladies
6 and gentlemen. Monday morning, 8:30 a.m.

7 Would all please rise for the jury?

8 *(Jury not present)*

04:55

9 THE COURT: All right. First thing, before I forget
10 it, Dr. Scarano is available next week. Do you have any idea
11 what day he's going to be needed?12 MR. MCKINNEY: The closer toward the end of the week
13 the better. But that's up to the doctor's schedule would be my
14 thought. We have other witnesses coming on Monday and Tuesday,
15 I believe. And Wednesday.

04:56

16 MR. ESTEFAN: Yes. We are accommodating quite a few
17 defense witnesses next week, your Honor. So, Monday, Tuesday,
18 Wednesday are kind of full up.19 THE COURT: Okay. And how many more witnesses do you
20 have, both live and on video?

04:56

21 MR. ESTEFAN: Give me a minute, your Honor, and I can
22 tell you.

23 Twelve live and four more videos, I think, Judge.

24 MS. CULLEN: Twelve more?

04:56

25 THE COURT: Twelve live.

0 4 : 5 7 1 MR. ESTEFAN: Twelve live and four more videos. Not
2 including Dr. Scarano, which -- you know, some of these defense
3 witnesses we have are being put in our week next week.

4 MS. CATES: Who are the 12 live that still need to
0 4 : 5 7 5 come?

6 MR. ESTEFAN: I'm not going to tell you.

7 THE COURT: Well, we could streamline this trial if we
8 knew who one another was going to call.

9 MR. ESTEFAN: We've been telling them ahead,
0 4 : 5 7 10 your Honor, at least a day or two. It's not like we're
11 ambushing them totally.

12 MS. CATES: Usually the night before, Judge. At the
13 end of the day they give us a list for the next day.

14 THE COURT: Okay. I'm told you need to talk to me
0 4 : 5 7 15 about something?

16 MS. HOLCOMBE: Yes, your Honor. We wanted to take
17 up -- we wanted to bring to the Court's attention and seek
18 to admit a portion with the State Department Report, Number 98,
19 Bortz 98. Your Honor said we would kind of take it on a
0 4 : 5 8 20 case-by-case if something kind of came up throughout the trial.

21 THE COURT: On the hearsay within hearsay?

22 MS. HOLCOMBE: Yes, your Honor.

23 Yesterday, if you recall on Anthony Adams'
24 testimony when he appeared by video deposition he -- Mr. Kelly,
0 4 : 5 8 25 in plaintiffs' proffer of Mr. Adams' testimony, they

0 4 : 5 8 1 specifically referenced the Department of State statement that
2 he gave to the Department of State, Mr. Adams. And actually,
3 Mr. Kelly, in the deposition, had him read a portion from it
4 and then also asked him if the actual notes themselves from the
0 4 : 5 8 5 interview was what he was reading, if those were them; and he
6 said, "Correct."

7 And I have the pages --

8 THE COURT: (Indicating)

9 MS. HOLCOMBE: Yes, your Honor.

0 4 : 5 8 10 I have the page and line here. Based on the
11 objections to portions of the hearsay within hearsay
12 statements, it is our contention that Mr. Adams' portion of the
13 State Department report should be admissible, several reasons.
14 One, the hearsay argument is taken care of by the fact that he
0 4 : 5 9 15 has addressed his own statements in his deposition with
16 Mr. Kelly; and, two, under the argument of waiver, as Mr. Kelly
17 had no problem with his out-of-court statements that he
18 specifically had him read during his deposition.

19 And we would just like that the rest of his
0 4 : 5 9 20 statement that he has asked if it was correct can also be
21 admitted as a part of Bortz 98.

22 THE COURT: Okay.

23 MR. KELLY: Several responses, your Honor. First of
24 all, it's cumulative. Anything that Mr. Adams would have said
0 4 : 5 9 25 has already been gotten through their proffers of his

04:59 1 testimony. Second of all, just because he was cross-examined
2 on his statement and asked if his statement was true or not
3 true and being cross-examined on that does not open the door to
4 the entire statement coming in.

04:59 5 And if they had wanted to do anything with that
6 statement, the time to do that was while he was being
7 questioned in his deposition. He was cross-examined on
8 specific portions of his statement given to the State
9 Department. That does not mean the whole statement from the
05:00 10 State Department comes in.

11 THE COURT: Well, I mean, I know it's -- any of these
12 questions are going to be close, but I'm concerned if we're
13 taking some hearsay and not other hearsay, by the same speaker,
14 from the State Department report.

05:00 15 MR. KELLY: Your Honor, it's not hearsay if he is the
16 deponent being cross-examined on it. It's no longer hearsay,
17 because it's not being offered for the truth of the matter
18 asserted at that point. In fact, quite the opposite; it's
19 being offered to show that he's testified inconsistently with
05:00 20 it.

21 MS. HOLCOMBE: Actually, your Honor, he was being
22 asked about the truth of the matter asserted, whether he had,
23 in fact, explained the previous day if the victim came to his
24 office to discuss her new job. And then Mr. Kelly proceeded to
05:01 25 ask several questions about if that was, in fact, true.

05:01 1 Therefore, it was being offered for the truth of the matter
2 asserted.

3 And Mr. Kelly even asked him about his actual
4 notes from the interview and if those were, indeed, true as
05:01 5 well.

6 Your Honor, his portion of the Department
7 of State report is only a page and a half of the entire report;
8 and it's the exact same declarant. The only other statement --

9 THE COURT: What was his job with KBR?

05:01 10 MR. KELLY: He was an IT manager, by his testimony,
11 your Honor.

12 And the purpose for offering that particular
13 statement was not for -- not for the truth of the matter
14 asserted. Quite the opposite, it was to show that even though
05:01 15 that he had stated that Ms. Jones was there three hours late
16 that was not possible because three hours late Ms. Jones was at
17 the clinic. So --

18 THE COURT: Yeah. But what --

19 MR. KELLY: It's -- it was not for the truth of it at
05:02 20 all.

21 THE COURT: Well, what I am trying to work through is,
22 he was a KBR employee, why is it not an admission by party --
23 oh, I see, because you guys want to -- yeah, I see.

24 Okay. Mr. McKinney.

05:02 25 MR. MCKINNEY: I'm agreeing with everything that

05:02 1 Ms. Holcombe says.

2 MR. KELLY: Your Honor --

3 MR. McKINNEY: I'm really tired. It's the end of the
4 day, and I don't have anything particularly intelligent to say
05:02 5 at this point.

6 MR. KELLY: Your Honor, I'm sort of being surprised by
7 this motion, to be honest with you. But the truth -- but if
8 you can look at what I've proffered, I'm not offering it at all
9 for the truth of the matter asserted. I'm offering it, in
05:02 10 fact, for the lie asserted. I'm offering it exactly the
11 opposite for the truth of the matter asserted. The whole
12 point is he wasn't being truthful; and that's why I offered it,
13 to prove that he was biased and offering untruthful testimony.

14 MS. HOLCOMBE: And just for clarity of the record, the
05:02 15 statement that he says is being offered was not -- just so
16 we're clear on the statement, this is not when she shows up the
17 next morning, which is what you said earlier. This is actually
18 earlier in the testimony.

19 MR. KELLY: I understand. But both proffers were
05:03 20 offered for the same reason, to show that he was untruthful,
21 not to show the truth of the matter asserted.

22 THE COURT: Okay. Wait a minute.

23 Now, Ms. Holcombe, when you say it doesn't come
24 in as a prior statement of the witness because we don't have
05:03 25 the declarant testifying at this trial, is that the --

05:03 1 MS. HOLCOMBE: No, your Honor. The declarant did
2 actually testify in this trial about this statement.

3 THE COURT: Well, if that counts, then why isn't it a
4 prior statement by a witness? He's offering it to show
05:03 5 inconsistency; you're offering it to show consistency.

6 MS. HOLCOMBE: Your Honor, it --

7 MR. KELLY: I'm not offering it. I cross-examined on
8 it, your Honor. I'm not offering the entire statement. They
9 want to offer the statements for the truth of the matter
05:03 10 asserted. I offered portions of it to prove the lack of the
11 truth of the matter asserted.

12 THE COURT: I understand that. You offered it to show
13 "inconsistent with the declarant's testimony and given under
14 oath subject to the penalty of perjury at a trial or
05:03 15 deposition."

16 I think -- I think KBR is offering it under the
17 next subsection, "consistent with declarant's testimony offered
18 to rebut an expressed or implied charge" -- no?

19 MR. KELLY: But it has to be express or implied charge
05:04 20 of recent fabrication of the specific issue that they're
21 offering. The point is, your Honor, they want to offer the
22 whole statement. They're not looking to -- to say that the
23 statements that I have attacked are recent fabrication.
24 They're trying -- they're offering the whole statement to say,
05:04 25 "Well, since he attacked little portions of it, let's go ahead

05:04 1 and put the whole thing in, since some of it we like."

2 That is not -- that is directly violative of what
3 the hearsay rule is meant to prohibit, your Honor. The fact
4 that he has given an inconsistent lie in the past is the
05:04 5 purpose of impeachment, but it doesn't mean that it opens up
6 the door to all other hearsay statements to come in.

7 THE COURT: No, no. I'm not saying that it does. I'm
8 just saying that you were attacking it for being inconsistent.
9 Why can't they -- why can't they offer something else to show
05:05 10 consistency?

11 MR. KELLY: The opportunity to show consistency, if
12 you will, your Honor, was at his deposition, to give him the
13 opportunity to clean it up. But he didn't -- they didn't. And
14 to do that now through a hearsay statement --

05:05 15 THE COURT: You're offering it now. You're not
16 offering it at the deposition. You're offering it now.

17 MR. KELLY: No, your Honor, I'm not offering anything.
18 They want to offer it. I --

19 THE COURT: But you read from it -- you read from it
05:05 20 is the point.

21 MR. KELLY: At his deposition, your Honor.

22 MS. HOLCOMBE: Which is trial testimony today. It's
23 the same as if he was testifying live, which we should take as
24 if it's trial testimony. And may I just add?

05:05 25 THE COURT: Yeah. Let her finish.

05:05 1 MS. HOLCOMBE: I would just like to add that even
2 though under 801(d)(2)(1) it can be the declarant testifying at
3 a trial today to prove, like you said, your Honor, under Part B
4 the consistency with his testimony prior. And, therefore, we
05:05 5 would seek to offer --

6 THE COURT: And this is (d)1, not (d)2, right?

7 MS. HOLCOMBE: I'm sorry. Yes, your Honor, (d)(1)(b)
8 to show consistency with his prior statements.

9 THE COURT: I'll take a look at the statement.

05:06 10 MS. HOLCOMBE: I have a copy here, your Honor.

11 MR. KELLY: If I could briefly, your Honor, I won't
12 belabor the point. But the opportunity for KBR to elicit
13 testimony from their employee was at the deposition, not to
14 come in here now and sneak in a statement after the fact.

05:06 15 I can't cross-examine that statement, your Honor.
16 I was able to point out inconsistencies at that time. This was
17 very early on in the discovery phase of this case.

18 If they wanted him here, they should have brought
19 him. They have control of him. He works for the company.

05:06 20 THE COURT: No. But you're both working off a
21 deposition, and I guess both were -- agreed that a deposition
22 would be offered and then you brought in the State Department
23 report to show inconsistency. And what they would like to do
24 now is bring in the deposition testimony to show consistency.
05:06 25 Seems like you-all are doing exactly the same thing.

05:06 1 MR. KELLY: No. They're wanting to -- they're wanting
2 to put in the statement.

3 MR. ESTEFAN: Not the deposition --

4 MR. KELLY: Not the deposition testimony, they want to
05:07 5 put in a statement to the State Department, your Honor, not out
6 of the transcript.

7 THE COURT: Well, it doesn't matter. It's the same
8 thing. It's a prior statement being offered to rebut a
9 suggestion of inconsistency.

05:07 10 MR. McKINNEY: And to -- go ahead, Stephanie.

11 MS. HOLCOMBE: I was just going to say, and his
12 statement is consistent with the testimony that --

13 THE COURT: At the deposition?

14 MS. HOLCOMBE: Yes, your Honor.

05:07 15 Other parts, too, that you had had a chance to
16 cross-examine him on are consistent.

17 MR. McKINNEY: Additionally -- additionally, it's
18 Mr. Kelly's position that he successfully impeached the
19 witness' testimony --

05:07 20 THE COURT: Yes.

21 MR. McKINNEY: -- by using the statement.

22 THE COURT: I know.

23 MR. McKINNEY: The reason why the statement should
24 come in is because the jury can look at the statement and
05:07 25 determine if, in fact, the statement impeaches his testimony or

05:07 1 it's a lawyer's contention contained within the statement,
2 which is why the exception has -- why the rule has this
3 exception.

4 THE COURT: Right. I think you're saying the same
05:08 5 thing I'm saying.

6 MR. KELLY: Then only the statement alluded to and the
7 specific portion of the statement alluded to -- what they want
8 to do, your Honor, is bring in a bunch of extraneous stuff that
9 this witness said to the investigator. That's the purpose for
05:08 10 offering this to you. It's because they want to bring in the
11 whole statement made to the Department of State so that they
12 can bring in the extraneous stuff, which bolsters other
13 parts of his testimony, not the specific things that were
14 impeached. And that's -- your Honor, this is exactly the heart
05:08 15 of hearsay.

16 THE COURT: Well, I know. And the hearsay -- and the
17 hearsay rule has built in an exception.

18 MR. KELLY: But not for this, your Honor, not to be
19 able to --

05:08 20 THE COURT: Well, they can only offer what is
21 consistent with prior testimony, something from the State
22 Department report that is consistent with his testimony at that
23 deposition or his testimony at some other date; but to the
24 extent they do that, they're entitled to whatever shows
05:09 25 consistency. And something entirely off the mark, such as what

05:09 1 he did during the Vietnam War, that's different. But if it's
2 something that goes to show that his testimony has throughout
3 been consistent, that has to come in because you've got to
4 bring in the State Department report for the purpose of showing
05:09 5 inconsistency.

6 MS. HOLCOMBE: And I would just add, your Honor, that
7 if you'll note, I do have it marked "redacted" the parts that
8 were not mentioned in this deposition --

9 THE COURT: I'll go through it this weekend. Let's
05:09 10 not spend any more time on it. I'll look at it this weekend.

11 Anything else?

12 MS. HOLCOMBE: No, your Honor.

13 MR. KELLY: No, your Honor.

14 THE COURT: Thank you very much.

15 *(Proceedings recessed for evening)*

16 * * * * *

17 COURT REPORTER'S CERTIFICATION

18 I certify that the foregoing is a correct transcript from
19 the record of proceedings in the above-entitled cause.

20 Date: June 24, 2011

21
22 /s/ Cheryll K. Barron

23 Cheryll K. Barron, CSR, CMR, FCRR
24 Official Court Reporter
25

\$ Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 240 of 282		2002 [3] 155/18 196/23 192/5 2004 [8] 93/7 156/23 177/13 183/4 183/21 183/22 184/18 192/1 2005 [11] 162/14 165/15 166/14 179/22 183/5 183/24 184/15 199/25 208/18 214/19 218/25 2006 [4] 180/8 181/23 182/2 182/14 2007 [1] 132/4 2009 [1] 181/24 2010 [2] 45/22 82/12 2011 [2] 1/5 239/20 21 [2] 181/10 183/18 22 [1] 184/1 23rd [1] 194/13 24 [12] 1/5 72/4 72/9 128/16 128/17 128/18 128/22 129/18 129/23 182/10 183/18 239/20 25 [3] 156/10 156/12 171/3 26 [4] 214/4 219/8 219/13 224/13 264 [1] 29/2 27 [3] 1/22 31/1 212/1 2719 [1] 1/4 27th [21] 30/11 30/15 31/6 32/19 33/20 33/22 68/2 68/4 68/11 68/12 68/18 69/3 69/8 70/16 71/9 125/2 129/2 131/5 131/12 134/17 179/22 28 [2] 214/2 214/4 28th [19] 30/9 30/11 31/8 31/10 33/22 68/10 71/4 71/14 82/7 124/16 124/24 125/2 125/6 125/7 125/8 125/10 125/11 127/24 227/4 2:15 [1] 150/20 2:31 [1] 150/22	500 [1] 227/12 5th [1] 199/25	
\$1,500 [1] 46/17 \$1500 [1] 46/17 \$500 [2] 44/23 46/14		6		
'		6th [1] 194/14		
'04 [2] 194/14 224/22 '05 [5] 68/2 124/16 160/18 160/19 224/22 'entirely [1] 148/6		7		
-		70 [13] 157/6 159/15 159/20 172/7 185/4 192/18 194/12 202/15 211/3 212/1 214/2 219/9 226/9 70 percent [1] 84/16 704 [1] 144/1 71 [2] 172/7 192/18 72 [7] 35/1 35/1 72/1 128/22 129/18 129/21 131/3 73 [6] 28/16 29/3 29/4 29/10 66/19 66/21 75 [1] 171/13 77002 [2] 2/6 2/14 77056 [3] 1/17 1/20 2/11		
-- you [1] 24/6 -6 [1] 198/24		8		
/		8-15-05 due [1] 212/11 80 [1] 156/2 80 percent [1] 171/13 800 [3] 196/3 198/4 198/24 801 [1] 236/2 85 percent [1] 23/23 86 [3] 202/16 224/11 225/2 87 [1] 194/12 8:29 [1] 1/5 8:30 a.m [1] 228/6 8:45 [1] 15/9 8:54 [1] 15/9		
/s [1] 239/22		9		
0		90 [1] 157/6 90 percent [2] 50/16 197/15 98 [3] 229/18 229/19 230/21 9:00 [1] 32/19 9:00 o'clock [7] 30/15 31/2 31/6 31/8 68/18 131/5 131/12		
000264 [1] 28/15 00157 [1] 147/22 05 [2] 224/18 224/20 09 [1] 168/24		A		
1		a.m [6] 1/5 15/9 15/9 123/10 123/10 228/6 abdomen [1] 188/19 ability [4] 52/3 62/18 146/21 147/25 able [15] 6/17 6/17 7/2 10/10 14/15 20/7 40/25 103/23 104/20 141/12 173/19 203/25 227/12 236/16 238/19 abnormality [1] 170/6 about [178] 4/5 4/22 4/24 4/25 7/11 10/4 10/5 10/9 10/13 12/9 12/16 12/17 12/20 13/6 13/11 15/20 16/19 18/25 19/25 22/19 23/11 23/19 23/21 23/22 24/13 24/19 24/20 24/21 24/24 25/3 25/4 31/20 34/15 35/17 35/18 37/8 38/25 39/8 40/14 42/6 45/2 45/5 46/17 47/9 47/17 48/6 49/16 49/21 49/23 50/10 50/17 52/24 52/25 53/1 54/18 56/22 59/8 59/18 63/10 63/24 64/14 65/15 66/7 66/16 73/10 73/12 73/13 73/16 73/17 74/20 75/13 77/18 80/13 81/24 83/23 85/22 87/3 87/5		
1 percent [1] 197/25 10 [2] 61/12 197/24 100 percent [2] 60/21 219/23 1000 [1] 2/5 105 [2] 104/12 123/23 10:30 [2] 73/10 74/12 1150 [2] 1/16 1/19 11:00 [2] 73/11 74/12 11:10 [1] 33/12 11:15 [1] 91/10 11:20 [2] 91/6 91/7 11:30 [2] 91/5 123/9 11:34 [1] 123/10 11:56 [1] 123/10 12 [5] 34/25 35/21 72/8 182/11 229/4 12-16-09 [1] 168/24 12-20-05 [2] 224/18 224/20 120-pound [1] 186/1 14 [2] 52/16 72/8 15 [7] 22/24 45/9 79/22 163/6 164/5 182/25 192/22 15 minutes [1] 63/5 1500 [2] 156/14 170/4 15th [5] 162/14 202/14 207/24 208/18 214/19 16 [1] 181/2 164 [1] 93/15 182 [1] 91/1 19 [3] 181/2 185/8 227/6 19-year-old [1] 186/2 192 [1] 211/5 19382 [1] 1/22 1975 [1] 16/22 1977 [1] 16/25 1979 [1] 17/1 1:15 [1] 149/25 1:27 [1] 150/22 1:30 [1] 149/24 lor [1] 122/13	3 3 millimeters [1] 190/22 3,000 [3] 171/8 173/21 177/5 3,250 [1] 171/11 3-centimeter [1] 192/22 30 [7] 25/2 59/7 111/1 156/10 171/1 171/3 171/4 300 [5] 156/3 156/11 186/2 186/6 198/19 35 [1] 185/4 350 [3] 186/3 186/6 198/8 360 [1] 171/4 36th [1] 2/6 3:00 o'clock [1] 227/11			
2		4		
2 milligrams [2] 49/19 72/22 20 [2] 62/17 156/12 20 percent [2] 216/17 216/18 200 [1] 196/3		40 percent [1] 216/17 400 [3] 186/17 194/1 194/2 44 [1] 211/4 450 [9] 186/17 193/7 193/8 193/17 194/2 196/7 196/10 196/16 198/20 47 [1] 219/12 4:23 [1] 227/17 4:30 [1] 226/24 4:47 [1] 227/17		
		5		
		5'4 [1] 198/24 5'6 [2] 186/1 186/7 500 [1] 2/10 515 [1] 2/14		

A Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 241 of 282		
<p>about... [100] 88/18 92/13 92/23 94/15 100/19 101/11 101/13 101/24 104/21 105/23 106/19 111/7 111/19 113/21 115/19 117/17 117/21 118/7 121/3 121/21 124/6 124/7 129/10 131/23 132/13 132/14 133/16 136/8 136/19 137/13 137/19 138/5 138/14 139/10 140/12 141/3 141/7 144/4 144/4 145/14 146/1 148/23 149/11 149/12 150/4 150/5 152/14 154/17 160/20 169/25 170/3 171/3 171/11 171/19 172/6 174/14 176/6 180/7 181/17 182/20 187/6 189/15 192/9 196/1 196/22 198/5 198/12 199/24 200/8 201/2 201/10 201/15 204/19 205/18 208/3 210/12 210/14 210/20 214/22 218/25 219/16 220/8 220/25 221/2 221/17 221/23 221/24 222/25 223/4 224/15 225/8 225/9 226/23 227/2 227/5 229/15 231/22 231/25 232/3 234/2</p> <p>about -- I [1] 124/6 above [2] 187/5 239/18 above-entitled [1] 239/18 absence [1] 11/20 absolutely [17] 32/21 59/22 92/14 101/21 128/18 163/12 167/22 200/3 206/5 206/13 215/18 218/23 220/3 221/19 222/5 222/7 222/13 abuse [3] 18/22 25/4 29/20 abused [3] 16/17 18/19 22/25 accept [3] 7/11 130/1 130/13 acceptable [1] 216/22 acceptably [1] 198/17 access [2] 38/10 41/1 accident [1] 180/2 accommodating [1] 228/16 according [1] 31/25 account [9] 42/3 42/7 62/7 76/18 101/18 102/7 115/24 136/16 137/2 accounted [1] 42/5 accurate [10] 31/24 32/5 33/20 99/19 121/14 143/18 167/4 175/23 176/9 217/25 accurately [3] 62/19 142/7 165/14 accusing [1] 223/6 acid [1] 117/14 across [2] 78/16 188/7 act [5] 18/3 36/3 75/3 145/19 146/11 acting [9] 22/10 34/18 48/7 55/12 65/8 95/13 95/14 98/7 147/4 action [6] 25/25 48/5 58/11 108/8 111/4 145/21 actions [10] 18/5 43/11 48/2 52/10 83/18 102/17 110/22 145/24 146/13 146/14 active [3] 21/17 50/1 94/23 actively [1] 192/8 activities [6] 17/17 63/12 63/16 94/20 210/5 210/14</p>	<p>activity [18] 8/18 39/25 39/23 39/24 42/16 46/18 51/9 63/18 80/15 120/18 137/21 138/9 138/18 139/3 139/6 139/10 139/20 146/22 acts [4] 146/7 146/8 146/9 224/5 actual [9] 5/16 11/24 55/22 65/7 105/24 183/3 190/9 230/4 232/3 actually [89] 7/25 18/6 18/8 19/7 19/9 20/2 20/15 20/16 21/16 21/20 21/25 22/14 23/17 24/2 26/9 28/22 29/11 30/2 32/3 37/16 41/7 45/14 47/24 49/17 51/3 59/6 63/21 65/20 67/24 72/11 78/13 80/19 80/23 84/18 91/23 101/11 104/5 105/12 105/24 106/24 107/12 109/24 110/20 123/19 125/9 128/9 131/15 132/6 134/16 137/23 146/19 151/21 151/23 152/7 153/22 160/22 163/23 173/9 173/10 174/20 174/21 175/10 176/15 177/15 177/17 183/21 187/21 188/19 188/24 192/14 192/20 195/3 195/22 196/5 196/21 197/9 197/18 208/17 209/6 213/10 218/21 222/3 223/17 224/3 225/4 230/2 231/21 233/17 234/2 acute [1] 179/23 Adams [2] 230/2 230/24 Adams' [3] 229/23 229/25 230/12 add [6] 10/1 19/21 21/11 235/24 236/1 239/6 addition [4] 17/17 19/11 91/21 133/22 additional [3] 45/13 68/8 167/24 additionally [3] 18/18 237/17 237/17 address [2] 12/5 122/10 addressed [1] 230/15 addresses [1] 107/23 adjuncts [1] 37/17 administer [2] 15/18 154/15 administered [3] 36/17 39/20 40/4 administration [2] 25/12 25/19 admissible [1] 230/13 admission [1] 232/22 admit [2] 159/22 229/18 admitted [8] 148/6 161/5 161/6 161/7 165/22 165/22 226/12 230/21 advances [2] 43/20 51/24 adversarial [1] 120/9 adverse [4] 17/21 17/24 18/6 25/5 advocate [1] 66/24 advocates [3] 6/11 12/7 199/17 affairs [1] 17/12 affect [4] 21/21 25/12 83/18 97/21 affected [1] 206/10 affects [1] 55/6 afraid [1] 11/8</p>	<p>after [51] 21/18 12/18 17/7 34/12 35/1 39/25 51/12 52/14 52/16 53/14 53/14 54/2 55/3 55/21 56/17 65/10 65/13 65/18 65/18 65/25 66/1 79/1 80/1 80/5 80/5 91/18 92/1 102/25 105/4 105/5 105/14 106/3 119/8 120/1 127/24 137/17 149/15 159/13 161/16 161/22 162/16 164/6 169/8 172/1 172/2 172/22 173/14 195/17 201/18 202/13 202/25 203/23 210/6 212/3 215/1 215/1 215/2 215/5 218/25 219/1 236/14 after the [1] 65/18 aftermath [1] 106/3 afternoon [2] 149/15 154/12 afterwards [5] 38/22 40/2 69/24 137/9 227/10 again [53] 37/12 37/23 38/21 45/11 62/25 63/6 64/7 64/18 65/1 65/3 68/15 72/15 73/1 73/17 74/7 74/13 75/12 75/18 78/25 80/1 80/3 82/20 85/7 88/2 89/4 93/4 93/11 95/9 96/12 97/20 100/19 111/5 114/25 115/3 115/7 129/2 129/3 130/13 131/13 137/8 146/5 158/19 174/16 183/24 193/21 199/14 202/18 213/22 217/7 223/11 223/22 225/23 226/3 agencies [1] 81/23 agent [2] 147/3 147/3 ages [1] 220/15 Aggravated [1] 98/11 aggressive [1] 21/17 ago [8] 65/21 82/15 92/4 102/19 152/2 170/24 180/25 200/10 agree [11] 71/15 71/17 79/3 130/17 141/21 189/5 189/9 204/23 216/20 217/3 217/16 agreed [1] 236/21 agreeing [1] 232/25 ahead [12] 11/11 53/10 80/9 80/10 94/11 126/12 144/6 184/8 196/14 229/9 234/25 237/10 aid [8] 4/7 120/7 143/6 164/17 164/22 164/24 165/10 165/14 aided [1] 1/24 air [7] 158/15 173/11 173/14 174/12 174/12 174/13 180/2 alcohol [25] 5/8 5/25 10/23 18/15 19/1 19/16 21/7 30/6 36/9 37/2 40/6 51/16 54/14 72/25 83/17 86/20 89/16 90/13 92/6 95/1 95/12 96/25 98/22 99/14 128/5 alcohol-induced [2] 89/16 90/13 alcoholics [2] 55/1 55/5 alert [1] 60/10 all [198] 4/4 5/19 7/2 7/18 8/22 8/24 9/5 9/21 12/16 13/20 13/22 15/1 26/6 26/17 26/17 26/23 31/17 31/25 33/11 34/2 34/5 36/2 36/3 36/3 36/7 38/15 38/16 39/2</p>

A Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 242 of 282		
all... [170] 39/5 39/13 40/19 42/8 42/9 43/3 43/4 43/11 43/22 45/24 46/9 46/11 46/23 47/4 47/9 47/18 50/17 50/25 51/19 51/25 53/5 53/23 54/2 54/17 55/14 56/6 57/6 58/1 58/4 58/20 58/23 59/1 59/18 61/5 67/6 67/12 68/20 68/24 70/24 71/5 71/11 71/20 71/23 73/3 75/4 75/18 76/6 77/6 77/20 78/14 78/21 80/3 83/20 84/3 85/3 85/11 85/18 85/20 88/13 90/14 90/17 90/22 90/24 91/11 92/22 93/14 93/20 94/9 94/16 94/25 96/6 97/21 98/18 99/22 100/12 100/15 100/18 104/4 105/17 106/15 107/10 107/21 109/3 109/7 109/9 110/25 111/23 112/5 112/22 113/21 116/5 116/11 117/6 117/9 117/11 120/24 122/16 122/20 124/21 125/25 128/4 130/11 130/15 130/17 134/11 134/20 135/13 138/1 138/4 142/25 144/17 144/25 145/1 146/11 146/17 147/2 148/10 148/15 148/18 149/9 149/22 150/1 150/2 150/21 151/21 152/10 152/18 159/5 176/5 179/12 181/3 181/8 182/24 186/8 188/4 188/6 190/13 190/13 193/7 195/11 197/3 198/5 199/8 203/7 203/14 203/22 204/12 204/15 206/10 206/10 212/6 213/5 213/12 214/13 215/14 217/9 217/17 218/15 220/15 224/17 224/25 225/21 228/7 228/9 230/24 231/1 232/20 233/8 235/6 236/25 allegations [3] 10/5 72/8 82/4 alleged [1] 120/4 allegedly [1] 72/10 alleges [3] 53/1 69/22 75/11 Alliant [1] 17/13 allow [7] 10/11 14/15 118/20 121/21 122/22 144/13 144/13 allowed [9] 8/7 8/10 26/10 26/17 115/25 123/2 143/7 152/18 165/23 allows [2] 158/15 224/2 alluded [3] 44/14 238/6 238/7 almost [7] 21/16 38/8 38/21 85/15 85/17 94/19 219/23 along [1] 49/13 already [9] 4/14 116/4 123/7 159/23 161/5 165/25 168/12 193/10 230/25 also [66] 12/6 13/4 13/7 14/19 16/17 17/10 17/12 17/13 17/14 17/18 18/5 18/20 18/23 19/18 19/19 19/22 21/16 22/12 22/20 22/25 25/13 33/10 35/4 36/10 40/14 41/10 42/17 42/21 46/4 46/5 46/13 48/21 51/18 53/3 55/12 60/8 74/1 74/15 82/6 90/4 97/3 97/4 98/19 99/17 102/15 105/18 107/8 128/11 129/5	130/24 131/6 137/4 141/8 163/7 166/19 167/6 169/1 173/23 181/22 185/14 192/12 205/11 205/12 221/23 230/4 230/20 altered [1] 52/15 although [4] 7/16 37/3 119/3 216/5 always [5] 113/8 134/23 185/24 216/1 216/14 am [9] 18/12 67/3 69/5 70/9 92/23 103/23 121/14 180/11 232/21 Ambien [25] 19/24 54/9 54/11 55/2 55/6 131/21 131/24 132/2 132/3 132/11 145/14 145/15 145/16 146/2 146/6 146/6 146/15 146/17 146/24 147/1 147/2 147/3 147/8 147/9 147/11 ambushing [1] 229/11 amnesia [73] 13/19 37/19 37/20 37/22 37/25 39/22 40/11 41/23 41/24 42/2 42/4 42/17 49/11 53/23 53/25 55/3 55/23 55/25 57/18 57/19 64/17 64/18 65/7 65/7 65/15 65/16 65/17 72/20 72/21 81/11 83/21 84/1 85/4 85/10 85/13 85/21 86/1 86/6 86/13 86/14 86/15 86/16 87/4 87/8 87/19 87/20 88/5 88/5 88/10 88/11 89/10 89/17 90/4 90/9 90/12 94/16 95/19 95/21 96/10 96/17 96/23 99/22 99/24 100/19 100/22 100/25 101/6 113/22 131/24 136/11 141/15 141/23 142/2 amnesiac [2] 53/25 54/25 amnesiac [2] 93/13 141/11 among [2] 48/24 50/2 amount [4] 49/2 50/14 72/13 207/10 Amphetamines [1] 127/3 analogs [1] 85/20 analogues [2] 19/13 19/15 analysis [4] 81/24 101/10 101/15 115/17 analyzed [2] 45/25 108/14 analyzing [1] 32/15 anatomically [1] 215/14 and it [1] 224/5 and that [1] 48/4 Andrew [2] 2/8 44/6 anesthesia [1] 37/17 anesthetics [2] 37/16 106/11 angle [1] 104/10 Angry [1] 98/12 animal [1] 50/13 animals [1] 50/16 Ann [2] 155/1 155/6 another [25] 6/4 9/11 33/6 39/25 55/24 56/20 57/18 66/22 70/20 86/20 89/10 93/4 105/7 108/12 115/25 116/10 129/4 142/10 149/22 151/13 153/18 207/12 207/17 214/2 229/8 answer [37] 13/24 13/25 68/7 68/22 69/5 76/11 87/18 88/1 97/23 103/15 108/11 109/6 109/10 109/23 110/5 112/1	113/18 112/19 113/20 113/12 115/21 116/14 118/22 129/8 129/13 129/17 136/18 137/6 140/9 140/9 141/4 181/3 181/9 182/12 182/16 183/25 220/10 answered [3] 118/19 141/16 178/22 answers [3] 44/15 121/23 145/3 Anthony [2] 227/5 229/23 anticipate [11] 40/6 40/13 48/2 50/13 50/16 50/21 51/7 52/9 96/19 137/8 203/24 anticipated [4] 21/20 42/18 42/21 184/16 antidepressants [1] 138/6 Antonio [1] 155/14 anus [1] 12/3 anxiety [2] 138/6 220/18 anxious [1] 149/20 any [88] 5/19 7/9 8/10 11/7 11/23 13/9 22/5 30/17 30/23 31/12 31/14 32/23 33/19 39/19 43/22 45/3 50/23 53/18 53/21 63/17 63/17 69/20 70/11 70/14 71/8 75/10 75/10 75/14 78/4 79/5 80/4 82/9 82/22 82/25 85/14 88/13 91/3 97/10 100/7 102/16 103/10 103/10 111/12 113/8 117/3 117/12 118/5 133/10 133/23 135/19 139/5 139/14 147/11 158/6 158/17 159/2 159/10 160/12 161/1 164/8 165/11 171/14 179/23 181/8 182/23 188/15 192/12 194/8 195/7 198/18 201/9 204/5 207/13 207/22 209/7 210/13 210/18 213/2 215/21 217/13 221/10 222/3 223/6 227/7 227/14 228/10 231/11 239/10 anybody [6] 37/1 83/7 113/10 113/13 122/24 141/10 anyone [4] 112/13 112/14 160/4 164/9 anything [37] 14/22 32/12 36/9 37/4 40/2 53/21 54/10 76/23 78/7 79/1 80/1 82/21 91/20 93/1 102/15 102/25 122/24 123/2 130/20 132/14 133/23 136/20 137/1 137/9 137/17 148/19 178/6 196/1 213/16 216/5 221/12 224/24 230/24 231/5 233/4 235/17 239/11 anyway [2] 116/13 136/3 anywhere [13] 34/25 38/23 45/8 73/4 78/4 78/18 78/21 78/23 107/22 112/9 112/23 114/4 133/23 apart [1] 99/3 apologize [4] 15/11 60/2 194/18 225/25 apparently [1] 111/25 appeal [1] 119/1 appear [8] 20/22 27/20 54/24 97/15 97/17 100/7 117/2 152/4 appearance [2] 204/14 225/20 appearances [13] 38/6 38/15 40/15 64/23 64/23 65/5 65/12

A Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 243 of 282		
<p>appearances... [6] 65/17 65/25 66/2 81/13 90/5 142/3</p> <p>appeared [8] 64/11 81/3 99/6 147/17 148/11 172/23 208/14 229/24</p> <p>appearing [2] 40/23 98/2</p> <p>appears [4] 7/8 33/11 60/10 120/8</p> <p>apples [1] 86/18</p> <p>applies [1] 70/7</p> <p>apply [6] 7/3 7/4 9/6 70/7 145/25 146/2</p> <p>appreciate [2] 149/8 202/18</p> <p>approach [29] 26/3 28/19 29/5 29/6 39/3 41/13 58/15 59/23 75/19 75/20 112/3 138/11 138/21 142/12 142/24 157/4 162/5 164/25 165/7 165/8 168/20 170/20 174/16 178/9 180/21 182/7 183/15 184/9 184/11</p> <p>approaching [1] 10/14</p> <p>appropriate [4] 99/6 186/18 186/19 198/11</p> <p>approve [2] 132/20 132/21</p> <p>approved [4] 20/4 20/4 20/7 132/21</p> <p>approximate [1] 47/22</p> <p>approximately [3] 46/3 57/13 203/22</p> <p>approximation [1] 47/5</p> <p>are [235] 5/9 5/19 5/24 6/1 6/5 6/5 6/10 6/21 6/21 6/25 7/1 7/1 7/1 7/3 9/1 9/2 9/2 9/5 10/8 10/14 10/14 10/24 13/7 13/12 14/3 14/4 19/4 19/13 19/14 19/14 19/15 20/25 21/6 22/22 23/15 25/11 25/15 25/17 25/18 25/19 26/24 26/24 28/5 29/13 31/16 31/18 32/5 32/17 33/16 35/21 36/16 37/11 38/7 38/13 38/21 39/7 40/16 41/5 41/6 43/3 43/11 43/12 43/19 46/13 47/18 47/19 52/12 52/20 53/18 55/2 55/6 55/8 56/3 56/5 56/7 56/11 56/16 56/16 56/19 57/9 58/2 58/2 58/24 59/1 59/4 59/6 59/6 59/13 60/9 60/10 65/12 66/24 67/23 68/3 69/2 69/6 78/22 79/15 84/12 84/13 85/12 85/19 85/25 86/4 86/5 87/13 88/21 90/14 91/3 92/12 92/18 93/7 94/6 94/22 94/22 95/10 96/9 96/16 97/24 99/2 100/23 104/20 105/16 105/17 107/5 107/7 107/8 107/18 107/24 107/25 108/3 108/3 108/7 108/22 110/18 114/12 115/17 116/8 118/9 118/13 120/5 120/15 122/2 122/2 122/7 122/18 122/18 122/20 123/17 124/6 124/17 124/21 125/23 126/22 128/4 131/9 133/1 133/3 133/8 133/8 134/18 134/25 138/2 138/7 138/9 144/17 145/4 145/11 145/12 145/20 146/24 147/5 147/5 147/7 150/1 151/14 152/7</p>	<p>157/20 157/11 157/12 157/17 167/20 168/18 169/24 173/1 173/1 173/4 173/11 176/6 177/11 177/23 179/19 180/3 186/1 189/15 189/19 190/12 190/25 191/8 191/13 191/16 195/23 196/5 196/6 196/7 197/14 197/15 197/16 199/1 199/8 200/14 201/11 205/11 205/18 205/24 206/8 210/12 212/20 219/20 220/12 221/10 221/12 223/16 223/17 224/7 226/4 227/7 228/16 228/18 229/3 229/4 231/12 234/23 236/25 237/16</p> <p>area [18] 4/16 5/14 5/21 12/15 26/19 26/20 26/22 41/10 57/4 122/9 140/14 174/15 176/24 177/1 178/16 190/9 190/23 191/15</p> <p>areas [10] 5/21 8/7 47/1 58/10 110/11 203/1 204/15 223/16 223/17 225/21</p> <p>aren't [4] 59/21 161/14 198/18 218/1</p> <p>areola [4] 162/25 169/5 178/25 223/24</p> <p>areolar [1] 192/22</p> <p>argue [1] 99/25</p> <p>argument [2] 230/14 230/16</p> <p>arising [1] 35/8</p> <p>Arkansas [1] 155/13</p> <p>army [6] 67/7 70/25 124/5 124/17 125/18 172/22</p> <p>Army's [1] 70/7</p> <p>Army-Navy [1] 172/22</p> <p>around [18] 6/22 21/10 35/2 35/21 46/16 72/17 73/2 73/25 87/13 87/16 104/7 136/22 158/15 161/13 174/12 201/20 224/8 227/8</p> <p>arriving [2] 88/22 116/22</p> <p>arrow [1] 167/5</p> <p>arrows [2] 166/15 166/18</p> <p>Arroyo [3] 150/3 150/12 150/17</p> <p>Arroyo's [2] 149/13 149/17</p> <p>article [7] 56/18 57/14 73/6 107/22 112/20 112/23 112/24</p> <p>articles [6] 56/16 56/16 56/19 57/22 57/25 58/10</p> <p>as [239] 5/14 5/19 6/17 6/20 6/22 6/22 7/4 7/9 7/10 7/11 8/1 9/17 10/7 10/20 12/9 12/23 13/1 13/7 13/12 15/4 15/24 15/24 17/5 17/8 17/9 17/13 18/8 18/16 18/18 19/7 19/17 20/3 20/22 21/5 22/2 24/4 25/1 26/8 26/19 27/23 28/7 30/24 33/6 33/6 35/15 35/15 35/24 35/24 37/11 37/16 38/18 40/20 41/12 42/11 44/15 45/7 45/7 45/8 45/8 46/10 46/10 47/5 47/11 47/17 47/17 47/20 47/21 48/4 48/8 48/13 48/14 48/14 48/23 48/23 49/6 49/17 50/7 50/25 51/2 51/11 51/16 58/10 58/18 64/14 65/18 67/10 68/12 68/15 68/24 69/6 70/5 72/21 72/21 72/25 73/18 75/15 76/25 78/6 80/23 80/24 80/25</p>	<p>60/25 81/9 81/10 80/10 81/24 81/24 83/3 83/3 83/4 83/12 83/15 86/10 87/8 87/9 87/23 88/8 88/8 88/14 94/19 96/19 98/20 98/22 98/22 99/4 100/9 101/21 102/5 105/1 105/17 107/15 107/15 108/6 108/8 108/8 108/19 109/10 109/16 109/23 113/24 114/14 114/14 114/20 115/17 120/2 120/12 120/20 122/16 130/11 130/11 131/11 132/2 132/24 133/21 135/9 135/10 135/15 137/9 137/10 137/21 137/23 138/5 138/23 139/14 141/12 142/14 143/8 143/10 143/21 144/15 145/20 146/16 146/20 146/20 146/21 146/25 147/2 147/3 147/6 147/6 147/9 153/8 154/2 154/2 154/20 154/21 156/4 159/7 160/5 163/3 165/24 168/4 168/7 168/24 171/15 172/15 177/10 178/3 180/19 181/7 182/2 182/13 182/22 183/7 185/12 191/3 191/15 192/8 193/12 195/7 199/2 199/15 199/15 201/14 205/6 205/13 205/13 205/16 205/22 206/15 208/9 209/13 213/19 213/20 217/12 217/22 218/3 221/10 221/10 223/7 224/5 226/1 230/16 230/21 232/4 233/24 235/23 235/23 238/25</p> <p>ask [40] 19/25 34/15 36/2 39/9 41/18 47/3 50/25 71/23 85/12 85/25 87/1 88/1 104/7 105/23 106/16 107/5 115/25 116/15 118/1 118/5 121/3 130/12 139/1 151/20 152/13 153/18 157/8 162/18 169/17 170/2 173/21 178/4 188/4 197/22 198/12 210/6 213/16 224/16 225/25 231/25</p> <p>asked [32] 11/6 31/24 35/17 78/11 78/12 88/1 95/18 97/5 102/19 113/2 119/5 119/6 119/7 119/8 120/1 121/22 170/8 177/23 180/7 201/15 219/15 221/2 221/23 221/24 222/14 224/15 225/8 230/4 230/20 231/2 231/22 232/3</p> <p>asking [25] 45/3 59/8 65/24 69/5 78/8 78/14 83/11 84/8 86/17 95/17 96/21 96/22 105/24 108/12 111/25 112/23 115/20 115/23 121/21 130/6 137/22 141/24 182/19 184/19 205/18</p> <p>asleep [1] 96/1</p> <p>aspect [6] 43/18 57/15 62/9 106/8 111/13 138/8</p> <p>aspects [4] 103/11 113/3 113/4 114/2</p> <p>assailant [1] 64/25</p> <p>assault [34] 5/10 5/14 5/18 6/2 7/23 8/2 10/25 11/3 11/16 11/24 12/4 12/7 12/8 29/14 29/21 36/7 40/17 41/11 47/15 61/8 76/9 89/12 101/5 110/21 113/17 114/5 120/14 120/20 122/12 133/7 133/9</p>

B Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 245 of 282		
before... [51] 28/22 30/18 31/4 32/1 33/13 37/21 41/2 45/13 46/23 47/6 67/21 67/24 68/14 68/15 69/22 74/15 78/19 89/8 90/15 90/16 90/18 91/22 105/11 111/7 120/23 135/5 135/22 136/25 140/8 140/9 141/18 145/5 145/12 149/14 154/14 154/17 158/19 159/3 159/5 160/15 166/24 170/17 171/22 174/4 174/20 199/3 199/10 213/18 224/12 228/9 229/12 beforehand [1] 216/25 beg [1] 117/22 began [1] 192/25 begin [1] 143/22 beginning [2] 87/18 180/5 begins [3] 47/22 189/2 189/3 behalf [3] 28/2 39/18 151/24 behaving [1] 99/5 behavior [3] 5/11 10/25 116/12 behaviors [5] 97/24 98/2 98/7 98/18 147/24 behind [3] 57/15 64/6 113/8 being [63] 6/17 6/17 21/5 33/13 35/22 39/10 40/23 49/9 52/5 52/6 63/4 64/2 64/23 64/25 67/10 68/1 68/24 79/21 80/18 80/25 95/22 100/9 100/13 106/7 114/20 119/12 123/4 132/24 133/17 135/10 136/8 137/9 137/10 137/13 140/8 140/15 151/9 185/11 187/4 191/17 192/14 193/17 199/24 203/24 207/4 211/22 220/20 220/21 220/23 224/15 229/3 231/3 231/6 231/16 231/17 231/19 231/21 232/1 233/6 233/12 233/15 235/8 237/8 belabor [1] 236/12 belief [1] 93/17 believe [34] 4/8 44/4 69/6 85/16 87/21 87/23 92/4 93/22 103/13 109/7 131/15 134/4 134/17 134/18 146/3 159/17 160/5 160/18 165/17 166/4 167/21 170/17 171/1 171/6 191/22 198/13 199/21 199/25 200/25 202/14 203/17 218/16 225/5 228/15 believing [3] 63/10 80/13 106/19 belittle [1] 220/24 below [7] 128/8 128/13 134/10 135/14 162/25 169/5 175/10 belt [3] 209/18 209/19 209/19 Benadryl [2] 22/6 36/4 bench [4] 10/15 11/10 91/8 119/10 beneath [2] 188/8 188/9 beneficial [1] 24/9 benefiting [1] 113/10 benefits [1] 210/2 benzo [1] 126/17 benzodiaze [1] 126/18 benzodiazepine [4] 19/7 126/5 126/7 126/9	benzodiazepines [8] 19/23 37/6 37/13 54/13 73/24 85/19 95/2 95/13 Berkeley [1] 155/12 beside [1] 80/7 besides [3] 12/18 27/2 112/13 best [6] 24/16 42/23 192/15 192/15 208/4 222/2 better [5] 186/12 198/20 210/12 220/25 228/13 between [23] 27/25 29/17 38/12 95/24 105/18 157/17 158/14 175/12 175/13 175/14 175/16 178/13 178/14 178/17 181/23 183/4 183/20 188/6 190/6 190/14 192/3 215/9 223/23 beyond [2] 7/23 120/11 biased [1] 233/13 big [7] 95/5 100/17 157/18 173/8 197/16 198/10 199/16 bigger [1] 196/15 bilateral [3] 204/13 206/23 210/1 Bill [1] 219/11 biology [1] 16/22 bit [27] 15/25 17/23 35/3 44/8 45/16 47/16 47/16 55/15 76/5 82/15 94/11 95/4 96/20 112/2 112/2 137/19 148/2 158/9 165/17 171/21 180/9 187/2 190/8 191/21 200/7 210/23 220/21 bits [1] 38/7 black [3] 8/21 96/3 97/12 black-and-white [1] 8/21 blacked [2] 94/22 99/18 blacking [3] 93/12 94/3 95/25 blackout [15] 37/2 90/7 92/5 92/22 94/13 94/16 94/18 94/24 94/25 95/11 95/18 95/20 97/7 97/8 97/9 blackouts [5] 54/9 92/19 93/2 93/9 96/3 bladder [5] 35/6 135/5 135/7 135/9 135/11 blade [1] 192/23 blocking [1] 61/17 blood [18] 33/24 34/1 34/4 34/4 34/6 34/14 34/25 35/4 60/18 71/6 73/14 73/19 73/20 93/21 134/22 135/1 138/1 223/19 blow [3] 172/8 219/10 225/4 board [8] 59/23 121/23 142/6 159/16 168/23 170/20 174/16 178/9 body [45] 5/8 6/1 10/17 10/24 18/4 20/17 25/11 25/13 25/22 25/23 26/16 34/21 34/22 43/17 47/10 47/10 47/23 48/20 50/1 51/4 51/7 52/2 52/8 52/9 52/17 53/14 53/15 53/20 53/24 54/2 54/5 54/25 55/4 55/22 136/4 176/10 176/11 176/18 176/21 188/8 189/7 198/14 198/21 203/5 223/17 bolstering [1] 118/16 bolsters [1] 238/12 bones [1] 190/14 book [1] 113/20	BORTZ [24] 2/1 8/28 28/16 29/2 29/4 29/10 30/8 40/9 44/3 66/19 66/21 81/7 91/1 93/15 99/4 101/23 131/3 147/23 148/1 148/6 186/25 211/5 229/19 230/21 Bortz' [2] 134/2 141/13 both [14] 44/20 86/22 134/22 164/14 166/15 196/20 203/12 203/15 203/20 215/12 228/20 233/19 236/20 236/21 bottom [11] 85/9 122/15 165/18 167/5 178/25 182/23 188/17 193/15 197/1 207/18 223/23 bottomed [4] 162/24 179/12 181/25 224/1 bottoming [41] 151/10 163/4 163/11 163/18 164/2 167/7 178/23 178/24 179/2 179/8 182/20 182/21 183/3 188/12 188/21 189/1 199/3 199/22 204/20 204/24 205/6 205/14 205/17 205/22 207/5 207/11 207/13 207/14 208/5 208/10 209/2 209/4 209/6 209/13 209/16 210/25 214/21 216/12 217/20 218/3 221/3 bouncing [1] 22/8 bounds [1] 109/19 bowel [1] 132/12 boyfriend [1] 220/17 bra [1] 196/6 brag [1] 208/3 brain [12] 22/1 22/10 38/8 38/10 49/10 52/15 52/20 94/20 146/16 146/19 146/20 146/25 brakes [1] 22/4 break [13] 44/10 55/15 91/4 91/6 91/11 91/12 103/22 103/25 111/20 117/7 149/15 149/24 227/16 breast [63] 156/4 156/7 157/3 157/12 157/13 157/19 157/24 158/2 158/13 158/25 159/12 160/3 162/21 162/23 163/2 164/19 166/6 171/1 171/9 173/21 175/1 178/13 182/23 183/3 185/16 192/25 193/5 193/14 195/4 196/15 197/1 197/21 201/20 203/12 203/16 203/21 204/13 204/14 206/15 206/19 208/8 208/23 209/4 210/11 210/18 211/18 211/20 214/20 215/8 215/11 215/16 216/9 216/24 217/4 217/8 218/2 219/17 220/20 220/21 221/25 225/21 225/23 225/23 breasts [34] 159/5 161/14 162/19 179/12 179/19 179/21 181/24 182/22 185/9 185/12 186/2 189/13 189/17 189/20 195/17 196/20 199/24 201/15 203/1 203/2 203/10 203/12 203/13 203/16 203/18 203/20 205/1 205/24 206/22 206/23 207/25 209/1 209/17 210/7 breath [1] 194/22 brief [2] 65/9 65/10 briefly [4] 56/15 189/22 222/24 236/11

B Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 246 of 282		
bring [7]	113/20 229/17 236/24 238/8 238/10 238/12 239/4	91/10 92/1 93/21 96/12 97/15 97/16 105/15 105/17 107/3 112/10 112/20 120/25 121/7 121/8 122/9 128/22 131/10 131/10 131/21 132/1 133/2 134/25 136/12 138/2 144/4 145/3 145/25 146/16 147/1 149/10 149/17 154/6 154/7 154/21 158/11 158/25 162/13 162/14 162/19 163/5 163/6 164/4 164/5 166/13 166/15 166/18 166/21 166/24 167/3 169/1 169/3 169/4 172/7 172/8 172/12 177/1 177/7 177/8 177/16 178/23 180/15 181/3 181/15 182/23 182/23 184/11 185/7 189/1 189/11 189/18 190/2 190/8 191/19 192/12 192/18 194/5 196/1 196/7 196/10 196/10 196/11 198/16 198/23 199/16 200/13 201/3 202/23 203/14 205/10 205/16 209/4 209/19 209/19 209/19 211/15 215/7 216/14 217/19 218/6 218/10 219/8 221/17 221/20 222/8 222/20 222/24 223/19 223/21 227/8 227/10 228/21 230/20 233/8 236/2 237/24 238/12 238/20
broad [3]	88/22 88/23 97/24	
broaden [2]	18/3 186/12	
broke [1]	136/25	
brought [3]	111/16 236/18 236/22	
BROWN [2]	1/6 1/7	
bruised [1]	203/19	
bruising [11]	180/6 201/22 202/1 202/4 202/5 203/11 203/25 204/16 204/17 210/16 210/18	
bubbling [1]	173/11	
builders [1]	20/17	
built [1]	238/17	
bunch [1]	238/8	
business [1]	45/24	
but [242]		
butyrate [1]	56/7	
buy [1]	20/16	
C		
cabins [2]	5/7 5/15	
cage [1]	158/13	
California [2]	17/14 155/12	
call [11]	15/13 19/14 32/9 38/5 42/12 42/15 67/4 80/22 216/7 228/5 229/8	
called [21]	18/13 18/23 19/5 19/12 22/6 22/25 23/17 23/18 23/18 34/16 37/19 45/14 47/14 54/12 157/3 166/16 175/15 189/13 211/12 211/16 224/3	
calling [2]	151/4 153/8	
calls [4]	23/21 24/7 101/25 227/20	
came [12]	18/2 18/7 19/6 78/16 132/5 132/17 156/24 157/20 202/13 215/2 229/20 231/23	
cameo [15]	38/5 38/15 40/15 42/14 42/15 64/23 64/23 65/5 65/12 65/17 65/24 66/2 81/13 90/4 142/3	
cameos [6]	38/6 42/10 42/11 76/2 76/4 100/18	
campus [1]	96/6	
can [219]	4/25 5/24 6/10 10/1 10/12 10/15 10/19 10/22 12/16 12/16 13/10 13/14 13/15 13/21 13/24 13/25 15/4 15/6 15/24 18/15 20/22 21/7 21/8 21/11 21/12 21/12 21/13 21/15 21/18 21/20 21/23 22/1 22/4 22/14 22/14 24/8 24/10 24/13 25/3 25/4 25/4 29/15 32/20 32/23 35/16 35/23 37/6 37/14 38/2 38/2 38/22 38/22 38/22 41/6 41/7 42/13 43/8 43/9 45/8 49/15 50/4 51/18 52/9 53/13 53/20 54/1 54/3 54/9 54/13 54/14 57/23 60/8 61/18 63/22 64/4 65/17 66/2 68/7 71/11 71/12 71/15 71/17 72/1 72/3 72/16 72/21 72/22 75/15 76/4 76/25 80/24 83/7 86/9 86/11 86/13 86/20 86/22	
can't [43]	12/1 22/16 33/23 38/10 38/11 39/22 42/3 42/5 43/19 46/4 48/7 53/12 58/8 64/18 75/2 83/17 83/18 85/16 86/17 86/21 86/22 86/24 93/2 94/21 107/4 118/22 127/11 138/23 140/2 146/5 152/5 182/5 184/2 186/8 198/24 207/15 207/17 221/12 221/18 225/24 235/9 235/9 236/15	
cancer [1]	220/22	
cannot [3]	6/3 42/6 47/4	
capsular [1]	180/19	
capsule [16]	151/4 151/17 164/6 164/7 166/18 166/19 167/6 168/4 180/12 181/7 181/13 183/5 183/19 184/3 202/3 224/6	
capsules [5]	151/25 164/10 164/15 167/1 201/19	
capsulorrhaphy [1]	210/24	
caption [1]	122/3	
captioned [1]	120/12	
captured [4]	71/13 72/6 72/7 74/6	
care [6]	15/1 121/3 158/9 197/13 217/18 230/14	
careful [3]	48/6 188/13 188/22	
carefully [1]	78/2	
Carolina [1]	17/2	
case [78]	7/4 7/5 9/6 9/17 9/19 9/19 12/18 24/5 24/17 26/10 27/8 27/12 28/23 31/7 33/5 39/18 43/6 43/7 43/8 44/20 44/23 45/3 45/15 45/18 48/13 50/10 54/18 56/3 58/6 58/6 59/10 69/15 69/18 75/22 76/21 82/11 82/21 83/10 87/11 87/11 88/16 88/18 88/20 88/23 88/24 100/15 103/17 107/21 109/3 110/15 113/2 113/18 133/19 140/18 145/15 149/23 153/18 153/18 153/21 158/23 163/18 164/17 164/22 165/25 167/7 176/22 177/9 177/21 178/1 191/9 200/12 229/20 229/20 236/17	
case-by-case [1]	229/20	
cases [19]	9/18 21/15 21/15 23/12 23/17 23/24 23/25 24/3 29/16 29/21 45/2 45/4 45/5 67/3 87/15 88/17 128/9 182/25 216/15	
Castillo [1]	115/9	
categories [1]	37/14	
Cates [2]	2/3 123/18	
catheter [2]	174/10 174/13	
cause [16]	86/22 88/21 89/5 163/7 163/14 166/24 169/18 177/7 183/3 195/7 208/1 209/2 209/4 209/6 209/16 239/18	
cause/effect [1]	89/5	
caused [5]	170/5 179/8 219/20 219/21 221/3	
causes [4]	86/23 163/3 208/9 209/13	
causing [2]	169/19 176/23	
cavity [10]	175/23 175/25 176/3 176/6 212/12 212/13 212/18 212/21 213/3 213/5	
cc [7]	186/6 186/17 193/7 196/7 198/9 198/19 198/24	
cc's [8]	186/3 193/8 193/17 194/1 194/2 196/7 196/16 198/4	
CE [2]	23/1 23/9	
cease [2]	53/24 100/16	
Center [1]	113/15	
centimeter [1]	192/22	
central [2]	48/7 48/12	
certain [5]	26/9 36/5 50/15 185/21 219/20	
certainly [11]	4/22 4/25 117/23 149/18 151/18 163/5 176/23 206/6 208/13 212/12 216/5	
Certification [1]	239/17	
certify [1]	239/18	
cetera [11]	14/13 14/13 14/13 60/11 60/11 63/25 99/7 99/7 106/20 106/20 185/22	
chairman [1]	18/12	
challenge [6]	4/9 4/10 14/11 88/25 89/3 89/3	
chambers [1]	227/14	
chance [1]	237/15	
change [3]	27/3 49/8 152/6	
changed [2]	52/15 206/22	
changes [4]	49/14 52/20 53/15 53/19	
changing [1]	25/11	
characteristics [1]	52/1	
charge [3]	44/18 234/18 234/19	
charging [1]	46/13	
CHARLES [5]	2/7 30/8 44/3 99/4 186/25	
chart [9]	8/25 13/25 132/23 133/11 134/19 200/14 201/3 201/8 201/10	
charts [1]	200/19	

C Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 247 of 282			clue [1] 41/24	complications [2] 158/6 158/18
check [6] 8/12 39/1 62/1 91/3 103/21 160/6	CM [1] 2/13			compliment [1] 24/4
checklist [5] 6/8 8/11 8/12 9/12 100/8	CMR [1] 239/23			component [3] 63/14 137/23 140/6
cheese [1] 227/9	co [1] 39/1			components [4] 110/18 112/5 120/8 120/9
chemical [5] 19/14 19/14 49/10 52/6 52/7	co-counsel [1] 39/1			composite [2] 108/20 109/7
chemicals [1] 41/8	coauthors [1] 79/15			compression [1] 209/17
chemistry [4] 48/20 52/15 52/20 64/5	cocaine [1] 126/22			computer [1] 1/24
Cheryll [3] 2/13 239/22 239/23	coincidentally [1] 218/24			computer-aided [1] 1/24
chest [32] 162/3 163/22 165/16 166/14 177/7 178/14 180/3 186/7 186/10 186/11 191/18 194/4 194/21 196/9 198/7 198/10 199/7 212/12 212/13 212/18 212/19 212/20 212/21 212/22 213/3 213/5 214/23 215/8 215/12 215/14 220/1 224/4	colleagues [2] 120/22 165/3			conceivably [1] 35/10
Chester [1] 1/22	collected [9] 30/12 30/14 31/2 31/25 35/7 125/14 129/2 131/12 134/17			concentrate [1] 35/8
chests [1] 186/8	collection [1] 74/15			concentrated [1] 12/15
children [1] 199/7	college [6] 16/12 16/20 16/25 23/18 96/6 155/10			concentrates [1] 35/3
chose [1] 59/9	colleges [1] 18/24			concentration [3] 35/12 74/8 74/9
chronic [2] 52/24 53/4	column [1] 126/16			concept [2] 56/24 59/21
chronically [1] 52/19	comatose [1] 22/15			concern [2] 9/11 206/7
chronological [1] 70/13	combination [2] 83/8 136/13			concerned [3] 11/12 206/4 231/12
Ciaravino [8] 151/8 151/9 168/13 169/8 181/5 217/23 218/14 223/1	combined [2] 19/20 72/24			concerning [1] 211/23
Ciaravino's [6] 164/13 168/14 180/8 181/23 181/25 223/2	come [29] 8/10 10/3 21/13 23/24 36/15 38/16 57/9 58/4 94/11 104/2 109/8 112/5 117/8 119/17 121/20 160/12 167/20 171/17 171/17 171/23 190/4 199/15 220/15 229/5 233/23 235/6 236/14 237/24 239/3			conclude [1] 71/11
circumstance [1] 191/11	comes [12] 46/15 75/1 100/12 105/13 122/17 135/18 145/17 178/6 188/7 197/12 199/2 231/10			concludes [3] 8/2 150/13 227/23
circumstances [1] 86/22	comfortable [5] 15/24 47/13 122/13 122/21 154/20			conclusion [2] 125/24 208/22
civil [1] 8/9	coming [16] 4/7 8/8 18/25 37/8 37/11 54/24 94/6 105/5 108/4 148/24 166/3 187/13 201/4 226/20 228/14 231/4			conclusions [2] 127/25 128/2
claimed [3] 30/7 30/19 118/24	comment [2] 140/18 148/23			concoction [1] 36/11
claiming [1] 102/14	comments [2] 129/10 223/4			condition [16] 63/24 64/15 156/25 157/2 157/19 157/20 163/3 163/10 164/1 164/2 168/15 170/3 189/13 206/18 208/14 221/3
claims [2] 57/17 60/23	commit [1] 227/6			conducted [1] 114/21
clarification [2] 39/4 178/23	Committee [2] 18/12 18/13			confer [1] 103/21
clarified [1] 84/14	common [17] 21/8 22/6 22/22 29/20 35/14 41/7 50/5 85/20 105/4 105/11 135/15 145/21 149/1 197/14 197/19 197/21 209/14			conference [1] 119/10
clarify [4] 49/15 78/15 170/25 215/7	commonly [5] 5/9 6/1 10/24 86/6 209/14			confidence [2] 14/6 45/4
clarity [4] 55/22 55/24 57/18 233/14	communicating [1] 99/5			confident [1] 112/25
class [6] 14/10 18/19 54/12 55/9 55/10 56/12	communication [1] 160/1			confirm [2] 139/19 164/14
classes [2] 14/10 146/5	communicative [1] 60/10			confuse [1] 93/2
classic [1] 19/6	community [3] 86/9 88/20 118/17			confused [6] 36/22 37/15 64/11 64/11 81/3 92/17
classically [2] 19/11 19/22	companies [2] 46/6 46/7			confusing [2] 92/15 93/11
classification [2] 47/13 55/11	company [6] 1/6 46/12 46/15 114/12 185/19 236/19			confusion [2] 93/3 106/12
classify [2] 47/11 137/10	compare [4] 66/22 86/24 120/25 121/7			consciousness [1] 40/19
clean [4] 32/22 32/24 33/3 235/13	compared [1] 86/21			consecrate [1] 227/14
clear [14] 9/19 48/14 66/23 80/3 97/23 106/4 118/9 121/10 129/16 136/23 139/2 163/25 189/15 233/16	competent [2] 4/16 11/19			consensual [1] 6/5
clearly [5] 8/21 10/15 26/21 65/9 91/24	compiled [1] 113/5			consent [2] 6/19 7/8
client [2] 147/14 153/2	complained [2] 194/24 214/23			consequences [1] 189/16
clients [1] 24/13	complaining [2] 93/8 215/7			consider [3] 76/22 199/1 221/10
clinic [3] 33/9 35/12 232/17	complaint [1] 185/8			consideration [1] 58/5
clinical [3] 17/19 57/15 145/22	complaints [2] 75/8 218/3			considered [1] 72/17
clinically [1] 53/11	completely [9] 35/23 66/23 97/5 135/7 158/21 158/22 163/16 163/17 188/18			consistency [7] 234/5 235/10 235/11 236/4 236/8 236/24 238/25
close [6] 62/22 158/13 173/11 174/4 190/23 231/12	completeness [1] 184/6			consistent [33] 6/5 25/25 31/20 31/22 33/12 36/2 40/16 41/10 43/11 56/14 58/13 85/10 86/6 94/14 98/21 98/22 98/25 100/9 103/12 107/20 108/6 109/4 122/18 133/8 144/17 148/24 151/5 234/17 237/12 237/16 238/21 238/22 239/3
closer [1] 228/12	complex [1] 12/9			consistently [5] 86/15 88/4 88/7 88/11 153/25

contacted [3]	45/6 45/12 45/17	corrected [1]	70/14	13/16 14/3 26/11 26/24 26/24	
contained [1]	238/1	corrections [1]	165/11	27/1 27/1 57/6 58/20 58/23	
contains [1]	29/12	correctly [2]	65/6 216/11	59/1 59/4 59/5 59/9 59/12	
contention [2]	230/12 238/1	corroborate [2]	70/12 134/4	59/13 60/25 61/5 61/21 61/23	
continue [14]	52/2 52/3 53/25 65/25 66/3 171/20 184/14 195/11 196/14 196/19 197/3 203/9 204/8 206/21	cosmetic [2]	187/19 224/3	62/5 62/8 66/12 75/18 76/7 76/8 76/16 78/2 99/24 101/25 102/8 102/15 102/18 106/17 106/23 106/24 107/5 107/6 107/7 107/11 107/15 107/18 107/23 107/24 108/3 108/19 112/12 113/14 113/18 114/12 117/14 119/4 119/5 120/2 120/3 120/5 120/12 122/1 122/2 122/7 122/7 122/11 122/19 122/20 132/25 133/1 133/6 133/8 133/14	
continued [2]	2/1 54/1	cost [1]	169/11	critical [1]	70/10
continuing [5]	16/18 18/20 23/9 23/10 113/10	could [64]	7/16 12/5 16/8 20/16 24/12 35/9 50/14 52/22 53/6 62/16 62/16 68/11 68/23 85/23 90/12 90/13 98/25 104/11 107/1 124/19 124/25 125/13 127/16 128/8 128/13 129/5 129/16 131/15 136/22 141/22 146/13 149/24 149/25 159/14 163/9 165/17 167/2 173/8 173/13 173/14 183/25 191/18 192/3 194/15 195/5 195/5 202/15 202/20 205/15 207/19 208/17 208/21 213/10 215/11 215/11 215/12 215/23 219/10 220/3 224/11 225/2 226/21 229/7 236/11	cross [15]	5/23 44/1 123/14 131/20 150/5 170/14 186/23 228/1 231/1 231/3 231/7 231/16 234/7 236/15 237/16
continuum [1]	216/21	couldn't [4]	90/10 131/17 198/21 208/20	cross-examination [6]	5/23 44/1 123/14 131/20 170/14 186/23
contradict [1]	128/15	counsel [6]	26/6 39/1 39/5 103/21 142/21 142/25	cross-examine [2]	236/15 237/16
control [5]	60/21 102/24 147/17 153/9 236/19	counter [1]	20/16	cross-examined [5]	231/1 231/3 231/7 231/16 234/7
controlled [3]	50/14 50/22 88/25	countries [3]	19/10 20/3 20/6	CSR [2]	2/13 239/23
conversation [1]	115/18	country [1]	6/23	Cullen [6]	2/9 97/6 186/21 186/24 221/2 226/14
conversations [1]	205/18	counts [1]	234/3	cumulative [1]	230/24
Cooper [1]	2/9	couple [15]	13/13 14/23 23/4 35/9 36/6 37/25 79/1 87/1 115/4 118/1 136/24 137/1 137/16 163/25 164/4	cup [1]	102/25
coordinator [1]	17/18	course [8]	5/22 13/6 16/16 16/17 16/17 103/15 141/19 206/4	currently [3]	155/23 168/18 168/18
copy [8]	29/8 29/9 120/25 142/20 152/24 152/25 154/6 236/10	courses [2]	16/15 23/9	curve [1]	96/12
corralled [1]	6/12	court [41]	1/1 2/12 2/13 5/22 7/12 7/22 11/6 11/10 11/18 12/5 15/20 16/3 23/2 23/2 25/2 26/17 27/5 39/4 39/16 54/17 91/8 116/4 117/22 119/3 119/13 119/15 119/20 120/24 121/7 121/15 122/4 143/15 149/18 152/1 152/20 154/17 176/15 226/18 230/17 239/17 239/23	customarily [1]	116/22
correct [195]	24/18 28/12 32/18 44/16 44/17 45/11 45/22 48/22 48/23 49/22 57/8 57/25 58/1 58/22 59/17 60/6 60/7 60/13 60/14 60/19 60/20 60/24 61/8 61/9 61/10 61/11 61/21 61/22 61/25 62/1 62/13 62/20 62/24 62/25 63/3 63/13 63/14 63/23 64/1 64/9 64/16 65/3 65/4 65/14 66/6 66/9 66/10 66/14 67/21 67/22 68/17 71/6 71/7 71/21 72/5 72/12 72/13 73/9 76/9 76/10 76/12 76/21 77/3 78/9 80/5 80/6 80/21 81/5 81/9 81/10 81/12 81/20 81/21 83/22 83/24 84/1 84/9 87/10 88/19 96/10 96/11 97/18 98/4 98/5 98/6 98/8 98/9 98/11 98/13 98/15 98/17 98/19 98/23 99/1 99/9 99/18 99/21 100/4 100/5 100/10 100/16 101/6 101/7 101/10 101/22 102/10 102/11 102/15 103/17 103/18 104/25 105/3 112/7 112/8 116/20 116/21 116/24 116/25 117/4 124/9 124/11 124/13 124/22 125/19 126/21 126/23 126/25 127/2 127/4 127/9 127/10 127/19 127/20 129/22 129/24 130/5 130/21 131/14 131/22 131/25 140/7 141/5 141/20 142/5 148/13 157/21 159/9 172/16 173/6 173/17 173/18 174/22 175/4 176/4 176/8 177/6 179/2 179/15 179/17 180/11 182/21 183/22 183/23 185/2 185/13 187/11 187/12 187/14 187/18 189/14 189/17 191/23 192/2 192/23 192/24 193/1 193/5 193/18 193/19 196/17 196/18 199/22 204/7 206/20 208/24 219/2 219/25 225/16 225/17 225/19 225/21	court's [15]	4/8 4/12 4/23 5/15 6/9 6/16 8/20 8/21 10/13 11/17 14/25 26/8 144/8 144/10 229/17	cut [7]	172/18 174/24 175/1 175/5 176/1 176/21 176/24
		courtroom [3]	8/18 27/21 112/14	cutoff [1]	226/23
		cover [1]	10/21	CV [1]	1/4
		covered [2]	43/3 143/23	D	
		covering [1]	175/22	D-I-T-Z-Y [1]	98/21
		covers [1]	178/16	D/B/A [1]	1/6
		cow [1]	190/17	daily [1]	155/23
		crashes [2]	209/5 209/15	Dan [1]	170/16
		crease [1]	196/25	dancing [1]	92/21
		create [2]	187/9 188/14	dangerous [1]	170/24
		created [2]	132/24 165/3	Daniel [1]	2/4
		creating [2]	133/11 193/4	Darlington [1]	1/22
		credibility [2]	7/9 7/25	dashboard [1]	209/20
		crime [2]	14/12 227/6	data [2]	68/10 85/7
		crimes [2]	14/13 108/23	date [107]	6/24 6/24 6/24 11/20 18/16 19/2 19/3 19/5 19/17 20/21 21/3 21/6 25/3 30/7 30/9 31/5 31/8 31/23 32/4 39/11 41/5 41/9 42/22 47/11 47/12 47/16 47/18 50/5 51/20 53/2 54/12 55/7 55/13 55/21 56/6 57/17 59/3 59/15 61/1 61/6 65/8 67/14 69/21 70/4 70/6 70/12 70/15 71/3 71/12 71/17 71/18 83/4 83/9 83/16 85/11 85/12 86/1 86/5 86/7 87/15 92/7 96/9 96/9 96/24 97/14 97/25 98/23 99/15 102/22 103/8 105/5 105/15 106/2 106/8 107/17 108/2 108/7 108/18 112/10 124/15 124/25 125/2 125/4
		criminal [4]	8/9 91/5 149/23 149/25		
		criteria [83]	4/22 6/20 6/21 6/25 7/1 7/3 8/13 9/1 13/5		

D Case 4:07-cv-02719 Document 305 Filed 06/27/11 in TXSD Page 249 of 282		
<p>date... [24] 125/11 125/13 128/4 128/9 131/17 131/20 134/20 140/8 140/11 140/14 140/17 140/20 140/21 146/11 147/8 147/9 151/6 161/19 161/20 162/13 183/4 212/3 238/23 239/20</p> <p>dated [6] 67/20 67/20 68/10 90/18 168/23 212/3</p> <p>dates [2] 200/14 200/16</p> <p>Daubert [8] 4/9 4/9 8/8 14/11 109/11 118/3 118/4 143/24</p> <p>day [24] 30/10 33/13 48/16 54/17 54/17 54/22 67/20 67/24 69/21 72/3 74/12 93/8 130/4 145/5 145/11 179/24 180/4 201/16 228/11 229/10 229/13 229/13 231/23 233/4</p> <p>day she [1] 30/10</p> <p>days [4] 38/23 90/18 203/23 212/3</p> <p>de [1] 89/3</p> <p>de-challenge [1] 89/3</p> <p>DEA [1] 23/4</p> <p>dead [1] 51/17</p> <p>deal [3] 5/3 18/14 149/25</p> <p>dealing [4] 17/15 31/16 108/21 108/22</p> <p>deals [1] 18/22</p> <p>dealt [1] 23/1</p> <p>death [1] 50/10</p> <p>December [2] 183/20 194/14</p> <p>December 6th [1] 194/14</p> <p>decide [6] 111/11 111/14 130/8 133/3 134/18 197/17</p> <p>decide -- I [1] 133/3</p> <p>decides [4] 125/17 127/23 128/1 130/1</p> <p>deciding [1] 199/8</p> <p>decision [2] 84/14 130/10</p> <p>decisions [1] 31/20</p> <p>declarant [4] 232/8 233/25 234/1 236/2</p> <p>declarant's [2] 234/13 234/17</p> <p>decrease [3] 20/19 74/8 74/9</p> <p>decreased [1] 36/22</p> <p>deducing [1] 88/22</p> <p>defaulting [1] 5/21</p> <p>DEFENDANT [2] 2/2 2/7</p> <p>defendants [4] 1/8 23/15 150/14 151/24</p> <p>defense [7] 23/24 23/25 24/1 43/22 227/25 228/17 229/2</p> <p>defer [1] 185/24</p> <p>define [1] 94/19</p> <p>definitely [5] 80/16 122/3 130/17 166/18 170/7</p> <p>definition [2] 93/19 95/20</p> <p>definitively [1] 10/16</p> <p>deformed [2] 205/25 214/20</p> <p>deformity [11] 184/16 204/13 204/19 205/7 205/13 206/15 206/23 209/4 216/8 225/16 225/23</p> <p>degree [4] 16/21 55/24 96/18 207/6</p> <p>dehydration [1] 51/11</p> <p>delay [1] 29/17</p> <p>demonstrate [1] 124/23</p> <p>demonstrated [1] 88/3</p>	<p>demonstrative [15] 4/7 14/19 26/25 120/7 143/6 151/1 151/2 152/10 164/17 164/22 164/24 165/2 165/10 165/14 166/8</p> <p>demonstratives [2] 165/24 166/5</p> <p>denote [1] 200/16</p> <p>density [1] 191/15</p> <p>department [23] 17/3 17/9 17/18 67/7 69/14 82/3 115/2 115/14 147/16 214/10 229/18 230/1 230/2 230/13 231/9 231/10 231/14 232/6 236/22 237/5 238/11 238/22 239/4</p> <p>depend [3] 97/1 217/5 217/9</p> <p>dependent [3] 22/12 103/11 138/7</p> <p>depending [5] 21/14 46/18 72/16 73/4 107/1</p> <p>depends [14] 35/4 36/13 44/20 86/18 86/19 86/19 90/6 99/17 102/23 128/18 128/19 128/19 136/13 216/24</p> <p>deponent [1] 231/16</p> <p>deposed [3] 26/20 26/22 27/1</p> <p>deposition [37] 13/6 20/20 44/23 69/11 69/12 123/19 149/13 152/15 152/16 152/17 152/19 153/11 153/18 154/6 180/24 182/10 183/2 226/22 227/21 229/24 230/3 230/15 230/18 231/7 234/15 235/12 235/16 235/21 236/13 236/21 236/21 236/24 237/3 237/4 237/13 238/23 239/8</p> <p>depositions [3] 27/14 136/21 153/21</p> <p>depression [1] 138/6</p> <p>derivatives [2] 19/18 41/6</p> <p>describe [11] 99/4 99/8 100/6 100/7 114/20 185/12 204/24 205/6 205/8 205/9 226/3</p> <p>described [17] 78/22 98/20 102/17 151/10 160/3 160/5 161/10 162/1 163/3 169/13 172/15 189/23 193/3 193/4 193/12 198/8 201/14</p> <p>describes [1] 117/1</p> <p>describing [4] 48/2 60/22 177/12 197/20</p> <p>description [7] 65/12 99/11 99/12 140/24 172/15 192/13 207/25</p> <p>design [1] 146/22</p> <p>designed [1] 40/25</p> <p>designed -- I [1] 40/25</p> <p>desires [1] 185/9</p> <p>desperate [1] 91/3</p> <p>desperation [2] 115/21 115/23</p> <p>detail [5] 82/9 172/25 174/3 192/21 197/11</p> <p>detailed [1] 172/14</p> <p>details [4] 45/3 54/24 211/17 211/19</p> <p>detect [2] 12/7 12/12</p> <p>detectable [2] 74/5 74/11</p> <p>detected [7] 74/20 87/17 126/10 129/3 129/18 134/10 135/23</p> <p>detecting [1] 12/21</p> <p>detection [2] 128/8 134/11</p>	<p>determination [1] 13/9</p> <p>determine [12] 5/13 5/17 6/23 11/2 11/14 30/17 59/2 83/17 83/18 215/25 222/2 237/25</p> <p>determined [2] 112/11 164/9</p> <p>determines [1] 141/25</p> <p>determining [11] 10/5 61/5 88/21 107/16 108/1 108/16 112/17 120/3 120/5 120/13 122/8</p> <p>developed [1] 37/16</p> <p>diagnose [2] 86/10 156/24</p> <p>diagnosing [2] 138/5 138/7</p> <p>diagnosis [1] 207/23</p> <p>diagnostic [2] 60/25 106/17</p> <p>Dickinson [1] 17/15</p> <p>dictate [1] 212/25</p> <p>did [114] 4/11 4/21 6/18 7/7 16/20 17/3 24/23 27/9 36/8 39/19 41/25 42/15 46/1 54/19 57/1 58/14 65/20 68/13 69/7 71/1 71/2 76/20 78/1 78/18 78/20 78/21 78/23 79/4 79/24 82/10 82/22 83/25 90/3 90/7 91/25 92/8 92/10 97/3 97/4 97/13 99/10 107/10 107/11 115/1 115/4 123/7 124/12 129/4 132/20 133/5 135/20 139/5 139/19 139/22 139/25 142/4 143/5 145/15 147/23 155/17 156/22 156/24 157/1 157/22 157/25 158/1 158/19 158/20 161/16 161/24 162/3 162/4 164/14 164/16 167/9 167/11 168/12 168/13 168/24 168/25 171/1 172/5 174/8 174/10 181/25 183/19 184/17 184/20 190/3 192/3 192/4 192/10 194/1 200/25 201/6 201/8 203/4 203/6 204/17 207/1 209/21 210/22 212/8 213/7 214/4 214/7 217/23 219/17 219/19 221/15 223/1 223/3 234/1 239/1</p> <p>didn't [32] 42/23 45/19 45/20 65/20 68/21 69/8 80/23 84/2 84/2 84/6 92/1 97/11 113/20 120/20 128/5 128/18 129/4 135/21 140/18 140/25 142/18 151/18 159/2 172/4 183/6 200/6 213/16 220/2 226/25 227/6 235/13 235/13</p> <p>died [2] 85/15 85/17</p> <p>difference [6] 31/15 95/24 151/9 157/17 165/24 203/14</p> <p>differences [1] 147/5</p> <p>different [40] 18/25 19/21 21/13 21/18 22/10 25/12 26/25 30/23 46/8 49/1 49/2 49/17 58/3 76/5 79/15 90/8 105/10 106/4 112/2 112/2 116/15 117/19 117/20 119/6 120/15 121/23 123/4 133/3 136/21 151/7 151/14 178/1 186/8 186/10 199/14 204/20 205/1 221/6 227/13 239/1</p> <p>differently [1] 49/2</p> <p>difficult [6] 168/1 169/22 180/15 190/8 215/24 223/8</p> <p>difficulties [1] 67/18</p> <p>difficulty [2] 194/18 217/20</p> <p>direct [6] 16/5 96/8 109/23</p>

D Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 250 of 282		
<p>direct... [3] 147/23 155/2 159/14</p> <p>directly [9] 4/8 11/13 15/24 92/12 112/6 122/1 154/21 172/21 235/2</p> <p>director [1] 17/18</p> <p>dis [1] 110/2</p> <p>disagree [8] 74/24 81/17 118/6 119/3 125/19 125/23 127/25 128/2</p> <p>disagreeing [2] 80/10 151/13</p> <p>disagrees [1] 125/22</p> <p>disallowed [1] 119/4</p> <p>disappear [1] 34/20</p> <p>discipline [3] 18/3 109/24 110/2</p> <p>disciplines [2] 110/25 111/5</p> <p>disclosing [1] 58/24</p> <p>discount [1] 99/12</p> <p>discovery [1] 236/17</p> <p>discreet [1] 53/1</p> <p>discrete [1] 55/22</p> <p>discuss [3] 82/22 197/11 231/24</p> <p>discussed [6] 82/25 144/8 196/9 197/6 197/8 217/20</p> <p>discussing [1] 132/24</p> <p>discussion [7] 11/10 24/19 91/8 121/19 139/23 141/7 153/15</p> <p>disease [1] 26/2</p> <p>diseases [1] 138/4</p> <p>disinterested [1] 67/1</p> <p>diskette [1] 27/14</p> <p>disoriented [2] 36/22 37/15</p> <p>disrupted [1] 164/7</p> <p>dissect [1] 188/16</p> <p>dissection [1] 188/13</p> <p>dissipate [1] 37/10</p> <p>dissolve [1] 191/13</p> <p>dissolves [1] 191/14</p> <p>distance [2] 166/23 223/23</p> <p>distinctly [1] 26/25</p> <p>distinguish [2] 215/9 215/10</p> <p>distressed [1] 220/16</p> <p>distributed [1] 25/11</p> <p>DISTRICT [4] 1/1 1/1 1/11 2/13</p> <p>ditzy [3] 98/20 99/4 117/4</p> <p>DIVISION [1] 1/2</p> <p>dizzy [2] 64/11 81/3</p> <p>do [207] 4/6 4/21 7/2 8/17 13/23 14/4 15/6 15/19 15/22 16/11 16/11 16/14 16/17 17/14 17/23 18/20 18/24 20/18 22/20 22/20 22/23 23/14 24/11 24/16 25/7 25/13 25/22 27/10 27/23 28/22 30/7 30/17 31/7 36/3 38/15 38/16 39/12 41/18 43/23 44/6 44/6 44/18 45/2 45/4 45/14 46/20 46/21 46/23 46/23 46/25 53/13 53/13 53/13 53/25 54/13 54/14 54/25 55/8 55/17 55/25 56/8 57/8 58/1 58/9 58/18 61/2 61/19 62/2 62/3 65/5 70/16 70/21 70/24 71/1 74/2 75/22 79/13 79/13 80/7 80/11 81/22 82/2 83/3 83/15 86/11 88/13 90/24 90/25</p>	<p>91/3 91/11 92/10 99/3 106/23 97/9 97/9 99/12 100/1 101/1 101/2 103/22 103/23 104/3 106/22 108/21 109/1 110/23 111/8 113/24 115/13 116/8 119/21 120/23 121/9 130/7 133/2 138/17 141/12 144/15 145/15 146/21 149/12 149/13 149/17 150/7 152/25 154/8 154/16 154/19 155/7 155/7 155/20 155/20 155/23 155/24 155/25 156/1 156/4 156/4 156/6 156/7 156/18 156/19 156/20 157/10 160/14 160/16 161/19 163/21 164/21 165/25 166/25 167/21 168/18 169/23 170/24 171/24 174/4 174/11 175/5 180/24 182/23 182/23 182/25 183/2 185/16 186/17 188/24 189/25 190/1 190/2 190/20 190/24 199/4 200/6 200/18 200/21 200/23 203/15 204/25 205/6 205/9 210/13 210/21 211/19 211/22 212/6 212/23 215/8 217/8 220/11 220/21 221/8 222/14 222/18 223/3 224/12 225/10 227/4 228/10 228/19 231/5 231/6 235/14 236/23 238/8 238/24 239/7</p> <p>doctor [120] 6/3 11/19 16/19 18/9 19/3 19/25 20/22 21/21 22/19 23/16 24/23 27/18 28/22 29/10 30/7 31/14 33/25 34/15 35/17 37/8 39/18 41/12 41/18 43/4 43/6 44/3 44/8 52/22 53/10 55/14 65/20 66/22 67/21 67/24 67/25 68/3 68/5 68/20 69/1 69/3 69/11 69/21 71/1 74/17 75/1 86/4 88/10 91/17 102/21 105/1 109/9 124/10 124/12 131/3 131/19 132/23 133/10 136/15 137/7 137/20 138/14 139/1 142/20 143/17 145/4 145/11 149/4 154/12 155/4 155/7 155/18 156/1 157/8 158/2 158/23 160/15 161/10 161/16 162/7 162/13 162/15 163/18 166/5 168/23 169/11 169/17 169/24 170/16 172/12 172/18 174/20 176/9 178/13 179/23 180/4 180/24 183/19 184/5 184/14 185/7 185/7 194/18 195/11 199/16 200/9 202/18 209/21 211/10 217/16 218/15 219/15 222/1 222/8 223/6 223/16 224/15 224/24 225/8 226/6 226/16</p> <p>doctor's [3] 6/5 120/11 228/13</p> <p>doctoral [2] 17/1 17/4</p> <p>doctors [3] 151/6 218/1 222/6</p> <p>document [12] 32/1 55/18 57/5 66/22 112/9 119/4 121/13 125/5 125/11 126/8 127/16 127/17</p> <p>documentation [3] 33/8 86/11 87/8</p> <p>documented [16] 39/24 53/18 53/19 54/6 54/8 86/15 87/14 87/19 87/21 88/4 88/8 106/6</p>	<p>documents [13] 27/7 27/10 27/11 27/13 27/17 28/5 28/6 69/18 124/5 133/12 139/5 139/19 152/9</p> <p>does [93] 8/3 8/4 8/25 8/25 9/12 9/17 13/17 14/10 20/1 20/5 20/9 25/14 25/15 25/22 25/22 30/12 31/2 31/14 32/11 33/10 34/20 37/22 37/23 37/23 38/16 40/18 51/3 52/2 53/24 56/24 70/6 71/24 73/25 74/20 76/2 80/3 85/4 85/5 88/3 91/19 95/2 100/12 103/16 111/18 112/25 117/2 118/4 121/11 122/24 125/5 126/2 131/8 132/20 139/13 142/6 142/9 145/15 151/16 151/24 157/13 163/1 165/14 165/17 169/6 169/11 172/18 173/12 176/20 178/7 181/20 181/21 185/16 189/4 190/2 195/16 204/25 210/24 210/25 211/2 211/19 213/19 213/23 214/13 216/8 216/12 217/4 217/11 222/17 222/19 226/18 231/3 231/9 235/7</p> <p>doesn't [44] 27/3 40/2 67/2 72/23 80/1 80/4 100/6 100/6 100/22 102/14 102/25 115/21 120/17 120/24 122/19 125/1 125/3 128/15 130/20 132/14 134/20 136/19 137/1 137/9 137/17 151/18 163/14 173/13 176/25 181/13 184/3 185/21 188/23 198/9 199/21 207/5 208/4 216/14 221/4 221/11 222/23 233/23 235/5 237/7</p> <p>dog [1] 67/2</p> <p>doing [24] 7/19 8/22 9/21 13/12 13/22 17/7 23/20 44/7 46/6 46/21 48/16 50/13 60/9 77/4 78/10 91/2 94/23 115/17 147/4 152/12 171/6 223/6 224/8 236/25</p> <p>dollars [2] 28/1 169/15</p> <p>domain [1] 7/6</p> <p>don't [122] 4/10 4/10 4/21 11/7 11/17 14/7 14/8 14/18 14/24 21/9 21/10 24/6 24/10 26/18 26/19 26/20 28/13 34/10 37/4 37/20 41/20 42/12 44/3 45/19 46/2 46/21 47/7 52/11 53/6 53/11 54/10 54/21 73/19 74/14 74/16 77/23 79/1 80/9 82/15 83/7 85/16 87/12 90/16 92/21 96/3 96/4 99/10 99/25 100/1 100/21 113/1 113/7 113/9 114/23 114/25 115/3 115/4 115/7 116/9 116/9 118/21 119/24 121/3 121/17 123/1 125/9 125/21 129/5 129/10 132/7 135/19 135/19 137/8 137/11 139/9 143/1 143/2 143/13 144/10 153/4 153/8 159/17 160/11 161/8 161/14 161/20 163/21 164/19 170/17 171/17 171/17 174/6 178/7 182/5 188/3 188/8 188/15 188/24 196/1 197/9 198/20 200/10 201/2 201/11 204/16 207/7 209/22</p>

D Case 4:07-cv-02719 Document 309 Filed on 06/27/11 in TXSD Page 251 of 282			40/21 41/5 41/10 43/12 43/16			
don't... [15]	210/13 211/24	211/24 213/2 214/9 214/17	Dr. Michael [1]	151/23	47/9 47/10 47/11 47/15 47/18	
218/16 220/9 220/16 220/17		220/23 223/10 227/16 233/4	Dr. Scarano [3]	6/16 228/10	47/20 48/8 48/11 48/22 48/23	
233/24			229/2		50/6 51/3 51/18 52/13 53/13	
done [41]	8/13 12/13 18/11		Dr. Schulz [8]	33/8 71/5	55/8 55/9 55/13 56/5 56/6	
22/24 23/3 31/1 31/18 31/19			71/13 72/8 124/10 134/1		56/7 56/11 56/11 65/13 72/25	
31/21 33/1 33/12 33/13 34/1			145/5 145/12		75/5 75/16 83/8 85/11 85/12	
34/3 34/7 34/14 35/5 47/2			Dr. Schulz' [3]	71/8 138/10	85/18 85/19 86/1 86/5 86/7	
53/22 57/10 67/7 75/12 77/10			139/2		95/3 95/14 95/14 96/9 96/13	
77/10 110/12 110/13 110/17			Dr. Scott [4]	90/17 90/21	96/16 97/2 97/10 97/21 98/19	
117/8 129/23 131/10 131/11			91/22 91/24		103/13 106/8 108/8 108/22	
145/22 153/19 170/4 174/3			Dr. Scott's [1]	139/12	108/22 109/1 111/2 111/4	
184/21 217/22 218/14 219/1			Dr. Tackett [14]	6/16 6/23	128/4 131/21 132/18 133/2	
223/5 223/9			8/7 12/6 15/15 15/16 16/6		133/3 134/12 134/21 140/14	
door [3]	119/6 231/3 235/6		16/11 27/7 116/14 119/12		140/14 140/17 140/20 145/19	
dosage [8]	49/25 50/3 50/8		121/12 122/11 123/16		145/19 145/23 145/25 146/11	
50/12 53/4 72/19 83/12			Dr. Tackett's [3]	10/16 121/5	146/16 146/17 146/23 147/6	
102/23			121/6		149/2	
dosages [3]	20/18 36/21 37/18		drank [4]	37/2 89/8 136/23	drunk [16]	62/22 62/23 64/11
dose [41]	20/25 21/14 22/13		136/23		77/12 77/15 78/22 78/24	
22/14 36/8 36/23 47/20 47/21			draw [2]	100/15 178/18	78/25 79/2 81/3 92/20 102/13	
47/21 47/24 48/1 48/3 48/3			drawing [2]	116/11 116/11	137/5 137/11 141/3 141/6	
48/4 48/8 48/11 48/18 49/5			drawn [4]	34/4 34/6 34/11	due [9]	26/23 68/20 78/14
49/7 49/16 49/17 49/20 49/22			152/7		107/21 109/9 112/22 212/11	
49/23 50/7 50/15 50/23 52/19			dress [1]	191/4	212/13 217/17	
72/24 73/7 73/8 74/3 83/16			drift [1]	20/11	DULY [2]	16/4 155/1
86/18 88/8 96/11 96/12 96/23			drink [19]	21/8 21/10 21/10	during [20]	30/21 40/19 61/8
97/20 107/1 128/19			21/11 40/1 42/24 51/14 62/16		65/6 65/7 76/9 96/8 101/5	
dose-related [1]	96/11		75/23 96/2 100/3 130/3		135/19 141/10 150/10 158/8	
doses [4]	36/19 37/7 96/9		130/19 135/16 136/24 137/9		163/9 189/23 203/11 203/19	
96/16			137/16 137/16 140/25		219/17 220/7 230/18 239/1	
double [1]	151/2		drinking [8]	62/5 76/15 76/17	dynamite [1]	117/15
double-sided [1]	151/2		101/17 101/25 102/6 136/15			
doubt [2]	56/2 87/4		137/2		E	
down [29]	35/13 40/20 43/3		drinks [17]	40/14 40/14 62/6	e-mail [3]	82/6 82/22 82/25
43/4 46/15 55/15 76/25 77/7			62/10 62/13 76/18 79/2 91/19		e-mails [1]	82/19
79/7 79/9 100/12 124/18			100/14 101/17 101/18 101/20		each [10]	43/8 100/21 108/19
148/2 149/4 163/6 164/5			102/1 102/7 102/9 102/14		110/13 111/13 113/18 117/1	
166/20 166/21 175/20 188/10			136/23		131/11 174/8 227/4	
188/12 189/3 204/3 215/19			drive [2]	54/16 54/18	earlier [13]	97/13 117/17
216/4 217/24 221/5 226/16			driving [2]	56/10 132/6	131/19 132/2 135/15 136/8	
227/3			drop [4]	35/10 35/12 93/21	142/17 161/10 163/8 167/2	
downward [1]	166/19		188/23		172/15 233/17 233/18	
Dr [6]	15/14 109/17 109/25		drove [1]	54/10	early [5]	147/10 207/19
110/2 151/8 181/23			drowsy [3]	64/11 81/3 98/8	207/20 227/3 236/17	
Dr. [60]	6/16 6/16 6/23 8/7		drug [240]		easel [2]	61/14 143/17
10/16 12/6 14/20 15/15 15/16			drug -- I [1]	135/8	easier [2]	47/17 62/2
16/6 16/11 27/7 33/8 71/5			drug-facilitated [26]	5/14	easily [2]	74/4 74/11
71/8 71/13 72/8 90/17 90/21			5/18 10/6 11/3 11/15 12/8		easy [5]	64/3 64/3 64/4 80/19
91/22 91/24 109/24 116/14			12/15 12/22 29/14 29/21		216/1	
119/12 121/5 121/6 121/12			29/23 36/7 40/16 41/11 43/12		eat [1]	132/12
122/11 123/16 124/10 134/1			47/15 89/12 110/21 113/17		eaten [2]	190/13 190/13
138/10 139/2 139/12 145/5			114/5 122/12 133/7 133/9		eating [2]	132/11 150/1
145/12 149/12 149/21 151/1			135/24 136/7 146/10		Economically [1]	169/11
151/9 151/16 151/23 152/2			drug-induced [3]	90/13 95/1	Ecstasy [3]	19/16 51/9 51/10
152/14 164/13 164/13 168/13			95/12		edge [1]	187/17
168/14 169/8 180/8 181/5			drug-related [2]	89/18 89/25	educated [1]	16/20
181/25 186/24 217/23 218/8			drugged [5]	10/18 125/22	education [8]	16/18 16/19
218/14 223/1 223/2 228/10			131/17 133/17 148/25		18/20 22/19 23/9 23/10 155/9	
229/2			drugs [140]	5/9 5/12 5/25 6/1	155/10	
Dr. Ciaravino [7]	151/9		10/17 10/23 10/24 11/1 16/17		effect [25]	17/24 25/12 26/16
168/13 169/8 181/5 217/23			17/16 17/22 17/24 18/3 18/5		47/10 51/8 51/13 65/13 84/6	
218/14 223/1			18/10 18/16 18/17 18/19		88/22 89/1 89/5 89/5 96/11	
Dr. Ciaravino's [5]	164/13		18/22 19/1 19/3 19/4 19/5		99/15 100/20 105/5 132/18	
168/14 180/8 181/25 223/2			19/14 19/19 19/20 19/21		133/5 141/2 141/11 146/25	
Dr. Eisenmann's [1]	164/13		19/24 20/22 21/1 21/3 21/6		149/1 179/14 181/8 189/10	
Dr. Jones' [1]	109/24		21/14 22/5 22/9 22/25 23/4		effects [31]	5/8 5/25 10/17
Dr. Lahiri [9]	14/20 149/12		23/6 23/12 25/3 25/4 25/4		10/23 13/19 17/22 17/24	
149/21 151/1 151/16 152/2			25/10 25/11 26/1 26/16 29/20		17/25 18/6 20/5 20/25 21/14	
			29/23 32/19 32/20 33/20		21/18 23/11 25/3 25/5 36/16	
			34/16 36/1 36/3 36/14 36/17		51/10 51/20 52/15 54/25	
			37/6 37/13 37/16 38/4 40/21		65/25 85/22 99/14 113/22	

effects... [6] 131/21 136/7
136/8 145/21 147/2 187/24
eight [9] 10/7 35/24 63/9
79/19 80/12 106/18 106/21
112/12 210/14
eighth [1] 73/12
Eisenmann [1] 151/23
Eisenmann's [1] 164/13
either [21] 18/15 25/25 51/23
51/25 52/19 53/3 53/6 68/11
70/17 81/15 98/25 104/16
112/5 163/21 171/16 179/13
197/15 200/20 201/9 205/15
207/11
either/or [1] 205/15
electrocautery [1] 172/21
electronically [1] 166/3
element [1] 53/23
elements [1] 84/21
elevated [2] 187/17 224/1
elicit [2] 206/6 236/12
eliminate [1] 103/1
eliminated [1] 53/15
ELLISON [1] 1/10
else [23] 10/7 14/22 36/9
42/25 55/5 76/23 82/21
100/25 122/23 122/24 130/20
133/23 137/1 137/17 141/22
148/15 164/9 195/2 212/23
212/25 221/12 235/9 239/11
else's [2] 32/7 107/6
embarrassment [1] 105/16
embraces [2] 4/17 144/3
emerge [2] 38/18 38/19
emerged [1] 47/15
employee [3] 214/10 232/22
236/13
employment [2] 30/22 31/21
emptied [4] 35/6 35/6 135/6
135/7
empty [3] 135/6 135/12 135/13
encompass [1] 130/11
encompasses [1] 18/7
encountered [1] 193/2
end [5] 165/25 191/9 228/12
229/13 233/3
endings [7] 176/10 176/19
176/22 176/25 179/18 223/17
223/18
endorses [1] 107/15
energy [1] 51/16
enforcement [7] 6/22 10/3
12/24 13/4 23/3 105/20 108/5
enforcement expert [1] 12/24
enhanced [1] 86/20
enlarge [2] 91/14 93/25
enlighten [1] 201/3
enough [15] 22/14 36/23 39/12
43/1 84/25 94/1 173/8 187/3
190/23 191/3 194/19 195/10
201/19 208/15 214/18
entail [1] 169/16
entire [7] 110/6 132/12
215/17 216/21 231/4 232/7
234/8
entirely [12] 40/9 62/18 63/2
99/18 102/23 120/15 148/12
208/24 208/25 212/14 227/7
238/25
entitled [5] 109/22 144/3

entry [2] 9/14 104/17
environment [2] 50/22 140/16
environmental [1] 17/23
envision [2] 201/22 201/22
episode [1] 148/24
episodes [1] 53/25
equal [3] 86/22 86/24 86/25
equivalent [2] 190/16 196/8
erode [1] 47/22
error [13] 32/6 32/8 32/14
69/7 69/9 69/25 70/17 71/12
71/15 131/16 134/19 134/19
159/12
errors [4] 32/2 69/25 70/17
84/13
erythematous [1] 138/19
especially [6] 110/10 185/1
198/17 201/19 216/24 217/14
essential [1] 103/9
essentially [6] 6/18 92/8
96/1 105/8 114/21 118/19
establish [2] 118/14 118/25
established [2] 88/9 122/6
Estefan [1] 1/18
esthetics [2] 198/13 199/2
et [11] 14/13 14/13 14/13
60/11 60/11 63/25 99/7 99/7
106/20 106/20 185/22
et cetera [11] 14/13 14/13
14/13 60/11 60/11 63/25 99/7
99/7 106/20 106/20 185/22
ethanol [3] 34/7 34/8 134/24
ethics [1] 16/16
euphoria [1] 36/20
evaluate [8] 7/3 43/6 43/7
53/12 140/10 203/13 222/2
222/8
evaluated [2] 7/2 28/23
evaluating [6] 8/23 9/2 9/18
9/24 59/14 222/12
even [38] 7/15 13/11 13/15
14/9 21/17 21/17 23/6 25/4
25/16 31/8 35/10 38/3 40/8
43/10 46/4 52/14 53/4 53/14
54/2 54/5 55/1 57/8 74/12
90/2 109/24 117/12 128/5
148/15 153/4 153/13 167/4
176/23 186/7 217/17 218/3
232/3 232/14 236/1
evening [9] 30/11 33/22 40/8
99/3 101/21 114/20 135/19
147/12 239/15
event [5] 60/23 67/10 89/18
89/23 89/25
events [10] 38/2 38/7 65/9
65/10 105/6 105/8 105/8
105/10 106/5 214/11
eventually [1] 49/10
ever [10] 26/18 37/1 44/4
79/4 112/13 112/14 160/3
207/17 218/14 220/24
every [15] 22/23 47/25 53/11
54/16 54/22 56/22 57/14 58/1
84/6 95/7 95/8 99/25 116/11
131/9 186/9
everybody [7] 53/12 56/24
111/18 136/11 139/13 139/16
226/9
everyday [1] 108/25
everything [8] 8/17 20/14
85/10 92/21 100/25 136/14

evidence [34] 8/13 8/18 8/23
62/17 63/17 71/8 74/21 74/22
75/6 75/7 75/9 75/9 75/14
75/15 76/11 89/5 89/8 89/11
89/15 90/1 92/12 102/4
111/15 120/10 125/13 130/8
130/16 130/18 139/14 140/22
147/11 178/6 211/5 226/9
evolving [1] 58/12
exact [9] 115/3 115/5 123/3
134/3 147/6 161/19 161/20
187/8 232/8
exactly [22] 8/4 38/11 42/13
46/25 87/11 102/19 110/8
110/12 110/24 140/18 174/6
180/14 181/12 181/16 184/2
198/19 202/2 215/25 223/15
233/10 236/25 238/14
exam [3] 71/2 162/22 206/9
examination [16] 5/23 16/5
44/1 48/13 96/8 123/14
124/13 131/1 131/20 144/23
148/21 155/2 170/14 186/23
218/12 225/12
examine [5] 11/19 158/19
162/3 236/15 237/16
examined [8] 82/9 179/23
181/17 231/1 231/3 231/7
231/16 234/7
example [36] 13/14 22/13
25/13 29/24 30/21 35/4 36/4
36/10 36/18 37/1 37/7 45/12
46/8 46/15 48/7 48/9 49/7
49/18 51/2 51/8 51/19 52/11
52/12 54/16 60/8 60/22 70/10
86/19 87/12 90/10 92/19
113/19 120/10 132/9 180/1
207/15
excellent [4] 158/7 161/15
200/3 222/22
except [3] 117/3 141/5 203/2
exception [3] 238/2 238/3
238/17
excitability [1] 49/9
excitation [5] 21/25 22/4
22/11 36/25 48/10
excitatory [3] 21/19 22/2
51/13
excited [1] 22/14
exclude [3] 8/1 125/1 153/10
excuse [14] 9/3 30/9 40/7
53/8 114/7 119/16 128/12
136/2 145/6 146/8 146/10
150/20 218/10 219/21
exhausted [1] 52/4
exhibit [24] 4/18 4/21 26/25
28/13 75/15 89/20 93/15
97/25 126/12 142/6 142/15
142/23 143/8 147/24 152/4
152/6 159/15 159/18 160/7
161/1 172/7 224/12 225/3
226/9
Exhibit 164 [1] 93/15
Exhibit 70 [3] 159/15 172/7
226/9
exist [3] 57/25 100/16 112/25
existence [1] 120/13
exists [2] 56/22 103/13
expect [11] 48/19 49/7 50/24
191/19 201/16 201/18 201/20
201/24 201/25 202/5 202/9

E Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 253 of 282		
<p>expected [3] 49/25 198/16 217/8</p> <p>expecting [1] 68/10</p> <p>expensive [1] 169/14</p> <p>experience [5] 13/3 111/1 207/3 220/13 222/11</p> <p>experienced [7] 62/8 64/20 76/19 90/4 101/19 102/8 217/2</p> <p>experiencing [2] 63/11 80/14</p> <p>experiment [1] 50/14</p> <p>expert [25] 4/7 4/9 4/23 5/1 5/24 6/9 6/10 8/1 8/10 10/22 12/24 14/9 14/24 24/5 109/21 111/7 111/9 115/24 120/20 139/10 143/10 151/12 151/12 177/24 178/1</p> <p>expert's [2] 7/6 109/13</p> <p>expertise [5] 56/17 105/23 111/15 120/11 144/4</p> <p>experts [4] 6/9 57/22 111/17 116/8</p> <p>explain [23] 21/22 68/11 137/6 140/9 152/3 152/6 158/11 162/18 162/20 164/18 164/23 165/3 166/11 166/13 167/3 169/1 169/3 191/18 203/15 212/17 222/20 222/25 223/22</p> <p>explained [8] 21/18 68/12 165/25 169/16 195/13 195/22 213/13 231/23</p> <p>explanation [3] 23/5 134/8 152/5</p> <p>explicitly [1] 110/22</p> <p>exposed [2] 32/16 52/18</p> <p>exposure [3] 55/21 57/17 105/15</p> <p>express [1] 234/19</p> <p>expressed [3] 67/6 99/20 234/18</p> <p>expression [2] 207/18 213/2</p> <p>extension [1] 70/2</p> <p>extent [1] 238/24</p> <p>extra [1] 158/9</p> <p>extraneous [2] 238/8 238/12</p> <p>extreme [1] 98/5</p> <p>extremely [3] 22/14 169/22 223/8</p> <p>eyes [1] 60/10</p>	<p>fact [54] 1/24 6/6 6/7 9/7 7/7 7/24 8/25 9/7 10/5 10/18 35/14 39/21 40/24 41/9 56/8 58/2 62/10 62/17 67/23 76/2 85/14 108/15 111/9 119/14 121/1 133/13 140/15 140/23 145/23 147/1 151/24 153/22 164/10 167/9 169/20 177/18 181/5 182/2 182/20 189/1 191/16 208/18 213/23 216/12 218/24 219/24 223/5 230/14 231/18 231/23 231/25 233/10 235/3 236/14 237/25</p> <p>factor [3] 48/21 74/13 199/8</p> <p>factors [13] 10/3 12/20 14/6 36/15 74/10 100/10 121/9 121/10 188/11 199/1 199/4 221/6 221/10</p> <p>facts [5] 7/4 7/11 9/17 9/19 139/9</p> <p>faculties [2] 147/18 147/24</p> <p>fade [2] 171/21 210/23</p> <p>faded [1] 200/7</p> <p>fail [1] 181/15</p> <p>faint [1] 94/24</p> <p>fainting [2] 93/12 93/18</p> <p>fair [26] 39/12 43/1 56/25 74/17 74/23 84/25 110/7 121/1 143/17 147/18 159/10 176/11 190/12 195/10 197/10 204/16 206/18 207/6 208/15 214/18 216/13 216/14 218/20 221/20 222/1 223/14</p> <p>Fairleigh [1] 17/14</p> <p>fairly [9] 34/18 39/10 105/12 142/6 165/14 179/20 181/20 185/14 222/8</p> <p>Falanga [6] 214/7 214/8 214/9 214/17 214/18 224/16</p> <p>fall [2] 56/12 216/23</p> <p>falls [1] 100/25</p> <p>familiar [7] 18/9 41/2 58/25 59/21 141/1 141/2 196/6</p> <p>far [13] 33/6 45/7 46/10 47/17 72/21 80/25 81/10 88/8 108/8 147/6 199/15 207/3 221/10</p> <p>fascia [1] 188/19</p> <p>fashion [4] 99/5 99/6 120/9 216/9</p> <p>fashioned [1] 8/11</p> <p>fast [3] 41/19 41/19 74/16</p> <p>faster [1] 223/17</p> <p>fat [1] 20/19</p> <p>fatal [5] 32/9 32/11 33/16 33/18 84/3</p> <p>fatally [3] 67/8 70/5 70/5</p> <p>fault [1] 145/8</p> <p>fax [1] 29/11</p> <p>FBI [6] 33/6 34/10 73/18 134/22 139/19 147/21</p> <p>FCRR [2] 2/13 239/23</p> <p>FDA [9] 20/4 20/7 54/11 56/9 132/5 132/17 132/19 132/20 132/21</p> <p>fee [1] 44/19</p> <p>feel [3] 99/14 102/12 220/25</p> <p>feeling [11] 62/21 62/22 77/12 77/21 78/3 78/5 78/22 80/4 100/6 148/23 210/12</p> <p>feelings [2] 80/4 100/7</p> <p>feels [1] 196/15</p>	<p>fellowship [1] 17/4</p> <p>felt [9] 78/19 78/23 78/24 101/22 102/12 102/13 137/5 161/15 195/16</p> <p>female [1] 185/8</p> <p>feminine [1] 220/21</p> <p>few [15] 38/2 38/19 38/20 38/23 38/23 45/8 62/6 76/18 101/18 102/7 102/7 123/21 179/4 180/24 228/16</p> <p>fibrous [1] 190/15</p> <p>field [2] 56/17 57/7</p> <p>fields [1] 86/25</p> <p>fight [2] 51/24 67/2</p> <p>figure [2] 107/4 127/15</p> <p>filed [1] 4/9</p> <p>fill [3] 54/22 105/19 194/1</p> <p>filled [7] 54/24 125/12 192/14 193/8 193/17 193/25 196/16</p> <p>filtering [1] 35/3</p> <p>final [1] 82/3</p> <p>finally [1] 147/14</p> <p>find [16] 13/3 39/19 51/6 51/11 51/12 56/2 57/8 60/16 72/11 85/15 102/4 110/17 132/9 146/24 201/2 201/20</p> <p>finding [11] 43/9 60/12 60/15 60/19 60/21 61/25 102/5 133/21 138/17 141/19 219/15</p> <p>findings [9] 6/5 9/23 9/24 26/12 59/19 142/7 164/14 206/8 225/14</p> <p>fine [11] 13/20 15/1 42/8 76/6 104/1 122/15 143/11 148/12 152/16 154/3 184/8</p> <p>finish [9] 53/9 112/21 113/12 119/17 149/13 209/21 209/23 220/10 235/25</p> <p>finished [2] 191/22 209/22</p> <p>firing [1] 38/21</p> <p>firm [2] 1/15 28/2</p> <p>first [50] 5/25 19/25 29/19 31/17 31/25 36/2 36/7 41/22 41/22 55/2 56/6 61/5 61/21 76/7 77/18 79/9 82/10 101/4 105/7 117/13 125/25 127/15 132/25 133/16 142/21 146/4 147/2 151/3 151/21 154/2 156/22 156/24 162/16 169/8 174/22 179/13 185/5 192/20 193/14 193/15 194/4 194/11 194/13 203/17 204/9 222/21 223/13 224/17 228/9 230/23</p> <p>fit [1] 133/15</p> <p>fits [3] 79/2 100/23 111/14</p> <p>five [10] 23/19 23/23 45/8 63/5 79/22 84/22 174/7 174/14 181/17 227/16</p> <p>five-minute [1] 227/16</p> <p>fix [1] 223/7</p> <p>flap [3] 189/25 190/3 190/3</p> <p>flashback [1] 42/13</p> <p>flashbacks [5] 42/11 76/3 76/4 81/15 142/4</p> <p>flat [1] 44/19</p> <p>flat-fee [1] 44/19</p> <p>flattened [2] 204/14 225/20</p> <p>Flattening [1] 225/20</p> <p>flaw [5] 32/9 32/11 33/16 33/18 84/3</p> <p>flawed [6] 67/8 69/23 69/24</p>
F		
<p>fabrication [2] 234/20 234/23</p> <p>face [3] 32/13 70/18 70/20</p> <p>facilitate [5] 5/10 6/1 10/24 18/10 144/18</p> <p>facilitated [29] 5/14 5/18 10/6 11/3 11/15 11/25 12/8 12/15 12/22 29/14 29/21 29/23 36/7 40/16 41/11 43/12 47/15 89/12 110/21 113/17 114/5 120/14 122/12 122/18 133/7 133/9 135/24 136/7 146/10</p> <p>facilitation [19] 6/25 8/24 9/3 9/4 23/11 25/20 28/8 36/17 39/20 40/18 43/9 43/16 136/2 136/3 142/8 143/19 143/22 144/16 148/25</p> <p>facility [1] 67/8</p>		

F Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 234 of 282			
flawed... [3] 70/5 70/6 70/19	function [1] 189/5	67/4 58/17 49/19 50/14 54/16	
Floor [1] 2/6	functional [1] 95/25	67/4 89/1 89/2 89/4 111/11	
flunitra [1] 127/11	fundamental [2] 100/13 103/16	121/16 121/18 137/6 154/17	
flunitrazepam [5] 30/3 126/11	further [5] 148/19 148/21	161/24 196/7 207/15 220/10	
127/12 127/19 128/6	171/20 226/13 226/15	228/21 229/13 235/12	
fly [1] 152/6	future [1] 187/22	given [42] 7/10 21/6 23/2	
focus [1] 106/21		29/15 30/18 30/19 32/20	
focused [2] 60/11 85/9	G	33/22 34/13 35/23 36/1 36/3	
fog [1] 12/10	G-A-B-A [1] 95/15	37/9 48/18 49/7 50/23 53/2	
fold [16] 163/1 168/2 169/5	GABA [8] 55/6 55/12 95/3	64/2 77/13 80/18 82/1 83/5	
179/1 181/24 188/20 196/20	95/13 95/14 146/7 146/8	83/12 86/22 96/24 99/14	
196/22 196/25 204/14 206/16	147/4	105/19 113/3 130/8 137/17	
210/1 214/21 223/24 225/18	gamma [4] 19/13 56/7 87/13	140/21 140/22 142/8 143/19	
226/1	146/8	144/15 144/18 147/11 191/15	
follow [12] 8/12 13/25 68/8	gamma hydroxy [1] 56/7	198/17 231/8 234/13 235/4	
123/21 157/25 171/18 194/11	gamma-hydroxybutyrate [2]	gives [4] 36/20 84/16 100/13	
194/21 197/4 201/13 202/24	19/13 146/8	134/23	
202/25	gatekeeper [1] 6/12	giving [7] 13/23 22/3 46/6	
follow-up [8] 68/8 123/21	gathered [1] 173/7	84/11 135/5 180/24 213/17	
171/18 194/11 194/21 197/4	gathering [1] 99/7	go [77] 11/11 15/1 20/14	
202/24 202/25	gave [11] 36/4 49/18 58/11	23/4 23/25 31/11 32/13 32/17	
followed [4] 55/23 55/23	68/5 69/3 69/22 97/6 133/13	35/15 36/24 39/7 45/9 51/14	
57/18 57/19	152/14 162/1 230/2	53/10 57/23 61/19 65/22	
following [3] 74/12 168/14	GBL [1] 19/15	66/21 67/12 67/18 72/1 72/22	
210/10	GC [1] 128/12	76/7 80/9 80/10 93/15 93/22	
food [1] 148/23	Genaro [1] 115/9	94/20 101/2 101/5 104/14	
for the [1] 233/9	general [11] 27/16 34/24	104/16 104/17 110/16 113/10	
force [6] 189/6 191/17 221/7	54/12 55/9 68/16 84/4 84/6	113/18 113/19 113/20 115/22	
221/17 221/17 221/20	84/10 88/23 146/5 155/14	124/3 126/8 126/12 127/16	
forced [1] 213/14	generally [11] 29/21 37/12	128/22 134/2 135/16 136/15	
forces [1] 190/25	38/18 44/20 47/9 72/17 73/24	144/6 152/10 158/19 165/25	
foregoing [1] 239/18	107/2 129/18 186/13 216/13	166/12 169/20 172/25 174/3	
forensics [1] 16/16	generals [1] 114/10	174/21 178/7 180/8 182/19	
forge [1] 94/11	generated [1] 49/9	184/8 187/6 193/10 196/14	
forget [2] 134/3 228/9	gentlemen [11] 15/11 16/8	199/16 202/12 202/21 211/3	
form [1] 144/2	24/24 56/15 91/2 111/7	213/14 221/6 224/11 224/12	
format [2] 132/21 142/10	123/12 155/5 177/20 227/3	225/2 225/6 227/12 234/25	
formed [4] 38/8 38/9 159/10	228/6	237/10 239/9	
159/12	Georgia [3] 16/12 16/25 17/8	goes [17] 7/23 23/5 35/5 45/7	
formula [2] 74/3 74/10	Germany [2] 67/8 70/8	89/2 89/11 92/20 92/20	
formulated [1] 41/7	get [44] 21/2 22/4 22/11	100/21 100/25 102/9 102/15	
formulating [1] 28/6	22/12 22/13 23/17 23/17	135/10 137/15 174/12 187/4	
forth [1] 136/21	25/14 29/14 29/16 33/3 33/13	239/2	
forward [1] 114/1	36/8 45/6 48/4 49/18 49/19	going [92] 5/5 7/7 7/9 8/19	
found [4] 9/25 12/2 39/21	50/6 51/2 51/5 57/13 64/5	9/7 9/8 9/15 9/16 10/10	
40/8	85/3 104/2 104/10 112/1	15/16 20/25 21/1 22/17 33/16	
foundations [1] 59/5	117/8 117/12 128/10 129/4	35/22 38/18 41/19 44/8 45/2	
four [17] 27/25 34/19 44/23	129/4 129/16 132/10 135/17	45/4 48/16 58/7 61/12 62/3	
72/16 72/17 73/2 84/22 93/8	140/18 142/18 145/3 149/9	66/21 68/9 68/20 74/7 74/9	
99/8 114/24 128/20 172/6	149/21 150/2 154/6 174/20	75/2 79/7 87/1 91/5 94/11	
174/7 174/14 210/20 228/23	175/3 190/23	95/10 100/24 108/23 108/24	
229/1	gets [9] 21/1 35/5 40/20	109/9 110/10 112/1 113/8	
four-day [1] 93/8	92/16 92/20 96/22 132/11	118/20 119/4 122/22 123/9	
fourth [2] 62/21 102/15	135/10 136/6	126/3 127/25 130/7 130/15	
framed [1] 105/16	getting [10] 20/12 31/10	131/4 132/8 132/10 132/10	
frankly [1] 200/10	45/20 48/8 48/10 48/12 49/22	138/22 142/22 144/13 144/13	
fraught [1] 168/5	96/15 131/3 187/22	145/4 145/11 146/13 152/2	
freely [1] 161/13	GHB [47] 19/12 19/13 20/9	152/5 153/10 153/19 153/24	
frequently [5] 168/6 195/4	20/10 20/10 20/12 20/15 30/5	154/12 157/8 160/12 163/8	
205/16 207/5 215/24	30/6 34/6 34/8 35/18 35/19	164/19 169/3 169/19 178/2	
fresh [1] 192/13	35/22 35/23 36/23 41/6 64/3	179/18 182/10 191/21 198/19	
freshmen [2] 18/25 21/9	64/4 80/19 83/23 83/25 85/4	199/3 199/12 199/15 213/18	
friend [1] 102/6	85/8 85/14 85/15 85/16 85/20	217/22 221/15 222/1 226/22	
friends [6] 62/6 76/15 76/17	86/9 86/11 86/13 86/15 87/7	227/10 228/11 229/6 229/8	
101/17 101/25 102/6	87/20 88/3 88/6 88/9 96/15	231/12 237/11	
front [4] 7/22 11/14 61/2	96/20 106/13 113/19 128/4	gone [9] 35/11 35/12 66/1	
119/15	131/13 132/21 134/24 146/9	72/3 74/14 135/20 181/5	
frontal [1] 162/21	146/25	210/16 210/19	
frontiers [1] 113/9	give [29] 6/19 7/8 12/17	good [35] 4/3 4/3 15/16 16/6	
full [7] 17/11 135/5 136/24	15/20 22/7 46/12 46/16 46/20	16/7 30/17 36/9 36/20 44/3	
		44/7 48/15 57/1 60/2 87/11	
		87/11 91/7 91/10 94/1 95/1	

G Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 255 of 282			haven't [21] 87/18 199/7		
good... [16] 111/12 111/20			having [32] 8/13 21/18 21/22		
113/19 114/12 114/12 123/18			22/2 39/19 48/1 52/7 53/25		
128/25 140/22 154/12 191/9			56/20 62/6 64/25 65/13 76/16		
197/4 199/6 199/20 200/1			76/18 78/3 92/1 92/5 99/18		
217/12 219/17			100/8 101/17 102/1 102/6		
got [38] 7/21 16/21 25/2 32/2			102/9 105/4 119/8 136/24		
32/3 36/6 37/23 41/20 42/15			137/8 148/25 181/17 189/17		
61/4 63/14 84/15 84/20 88/1			189/20 195/8		
89/3 89/6 92/14 94/13 119/6			he [106] 4/24 4/25 6/3 7/7		
125/11 126/1 128/19 129/8			7/10 7/11 7/16 8/19 9/7 9/9		
135/12 139/16 140/8 140/11			9/17 10/19 12/1 12/11 12/16		
140/19 140/19 149/22 151/2			12/16 12/17 12/17 12/18		
154/8 155/9 188/6 188/7			12/19 12/20 12/21 12/23 13/7		
220/10 227/13 239/3			13/9 13/14 13/15 13/17 13/21		
gotten [2] 35/11 230/25			14/6 14/19 14/19 24/12 24/13		
graduate [2] 17/17 155/17			26/11 26/15 26/21 26/21 27/1		
grant [2] 47/2 113/16			39/9 112/23 115/21 116/6		
gravamen [1] 4/12			116/7 117/13 117/14 117/15		
gravity [6] 179/13 189/6			117/18 117/21 117/24 118/7		
221/7 221/14 221/15 221/16			118/7 118/8 118/15 118/24		
Gray [1] 227/5			119/6 119/6 119/6 119/7		
great [3] 129/17 176/18			119/7 119/7 120/3 120/4		
216/22			120/5 120/19 129/11 134/2		
greater [4] 40/13 42/21 86/8			134/4 139/11 139/11 139/15		
99/15			140/25 144/4 152/22 184/10		
Greg [1] 115/6			201/15 223/3 227/6 229/24		
groggy [2] 12/10 37/15			229/24 230/2 230/5 230/5		
group [1] 126/1			230/14 230/17 230/20 231/1		
growth [2] 20/18 20/19			231/6 231/7 231/15 231/21		
guess [11] 5/3 13/23 42/23			231/22 232/10 232/15 232/22		
89/22 106/16 121/17 132/24			233/12 233/13 233/15 233/20		
132/25 154/5 166/24 236/21			234/25 235/4 235/13 235/23		
guidelines [1] 185/21			236/19 237/18 239/1		
guy [1] 136/1			he's [49] 6/3 6/6 7/8 7/15		
guys [2] 123/8 232/23			7/19 8/22 9/5 9/8 9/14 9/15		
GYN [3] 90/14 138/24 139/15			9/16 9/21 9/23 12/12 12/14		
H			12/14 13/1 13/4 13/22 26/12		
H-07-CV-2719 [1] 1/4			26/12 26/15 26/17 26/17		
had [114] 4/13 4/13 10/12			26/20 27/2 68/6 78/11 78/11		
11/4 18/9 23/1 23/24 24/3			78/12 113/3 115/20 115/20		
24/19 30/18 32/21 33/19			115/24 116/6 116/6 118/19		
33/19 35/11 39/22 39/25 40/7			139/8 139/9 139/13 139/15		
41/1 52/16 57/14 57/17 62/16			144/3 151/3 153/24 154/8		
62/17 68/12 68/17 70/4 70/11			219/15 228/11 231/19 234/4		
72/13 73/7 75/10 78/5 86/10			head [5] 17/9 106/4 114/23		
89/10 89/16 90/7 90/8 90/10			181/19 200/10		
91/18 91/25 91/25 100/8			heal [2] 191/10 223/17		
101/20 102/14 106/3 115/18			healed [3] 158/6 163/16		
119/11 120/20 130/3 130/19			163/17		
132/23 134/1 134/7 136/17			healing [1] 218/21		
136/22 136/25 137/4 137/15			health [9] 189/16 189/16		
139/3 139/6 141/11 154/21			189/19 199/7 217/5 217/6		
158/6 164/6 164/14 165/10			217/10 217/10 217/13		
167/18 167/19 168/11 168/16			healthy [2] 181/13 191/10		
168/16 169/8 170/17 177/5			hear [3] 6/23 8/15 24/10		
177/9 181/5 184/20 192/5			heard [5] 12/9 22/6 92/11		
192/8 193/10 194/12 195/6			188/3 207/22		
196/16 197/8 197/21 199/7			hearing [2] 104/3 123/9		
200/3 203/5 203/20 205/3			hearsay [24] 7/13 7/13 7/14		
205/4 207/21 207/21 207/22			7/15 115/19 115/19 116/2		
208/7 208/18 208/23 213/17			116/3 116/3 229/21 229/21		
213/17 214/19 218/14 219/1			230/11 230/11 230/14 231/13		
219/13 220/1 222/14 222/22			231/13 231/15 231/16 235/3		
223/5 230/3 230/17 230/18			235/6 235/14 238/15 238/16		
231/5 231/22 232/15 237/15			238/17		
hadn't [2] 218/15 223/11			heart [2] 60/17 238/14		
half [20] 34/16 34/16 34/19			heavily [5] 40/23 63/4 79/21		
34/19 34/20 35/17 35/18			80/2 137/13		
			heavy [3] 19/23 72/19 210/14		
			Hedges [7] 2/4 2/5 153/23		
			154/6 170/16 191/15 201/13		

Hedges' [1] 221/24
Heidi [1] 1/15
height [3] 60/17 185/22 186/9
heightened [1] 51/9
held [1] 17/5
help [4] 24/10 164/18 164/23 202/18
helps [1] 116/16
hem [1] 191/4
her [131] 12/2 12/11 39/10 39/19 40/1 40/23 60/5 63/12 63/24 64/10 64/14 64/14 64/19 64/25 69/11 72/12 73/11 74/18 75/11 77/2 78/4 78/9 78/19 78/20 80/4 81/2 81/9 81/9 81/15 89/8 91/25 99/4 100/2 100/7 100/8 101/20 101/21 102/4 102/9 102/12 102/13 102/16 102/24 128/18 130/2 135/5 135/7 137/17 139/16 140/1 141/3 141/10 141/12 147/17 147/24 147/25 149/14 151/17 151/18 152/8 152/17 153/8 153/9 156/20 156/23 156/24 158/19 160/4 161/15 161/18 162/2 168/19 172/1 172/2 172/3 172/5 172/6 177/11 177/12 179/23 181/24 181/24 183/5 183/5 183/24 184/15 184/20 184/21 185/12 186/7 186/18 190/5 194/13 195/17 198/8 199/18 199/20 199/24 201/15 203/5 203/10 203/18 204/5 205/1 205/2 205/18 205/19 205/20 205/21 207/23 207/25 209/1 210/7 211/16 211/23 212/12 212/13 213/9 213/17 214/20 214/23 217/10 218/21 218/24 222/21 223/24 223/24 224/17 224/19 231/24 235/25
here [69] 4/24 6/18 7/19 8/10 8/19 11/18 13/13 15/17 31/23 32/6 34/3 40/20 58/14 61/18 66/24 67/16 67/17 67/17 78/10 81/17 83/3 83/4 88/14 89/7 90/1 91/17 92/11 92/14 93/25 94/3 99/20 101/24 102/21 103/14 104/18 104/20 111/3 111/12 118/3 121/24 122/11 124/7 126/1 128/3 133/14 135/18 138/18 139/10 144/19 147/20 152/13 154/13 160/1 160/6 164/23 174/24 178/19 201/4 202/24 203/13 203/15 208/3 210/8 213/11 227/13 230/10 236/10 236/14 236/18
here's [7] 21/22 25/24 31/16 87/11 91/4 91/4 221/14
herself [3] 78/19 114/22 133/22
Hi [1] 123/16
high [14] 18/24 22/14 36/23 37/7 50/18 52/19 53/4 62/7 72/24 76/18 83/16 101/18 102/7 182/17
higher [6] 36/21 72/22 96/9 96/23 152/4 152/7
highest [1] 50/9

highlight [8] 67/06 67/14 93/23 104/17 124/19 185/5 194/15 202/20
highlighted [3] 30/15 70/21 91/14
him [28] 7/20 13/10 24/12 26/4 26/11 26/19 39/9 41/14 41/15 53/9 68/7 112/21 119/17 120/2 121/3 121/25 143/11 143/13 151/8 230/3 230/4 230/18 232/3 235/12 236/18 236/19 236/19 237/16
himself [1] 120/20
hinges [1] 117/14
hippocampus [1] 38/9
hips [1] 198/7
hire [2] 24/4 37/18
hired [2] 24/2 78/12
his [64] 4/25 5/7 5/24 7/16 9/17 9/18 10/18 10/22 13/2 13/3 13/6 26/23 60/10 68/7 77/8 81/7 101/23 109/13 109/13 110/2 110/5 120/2 120/2 121/3 121/13 121/14 122/1 122/1 122/2 122/7 129/12 139/12 139/15 144/4 145/6 147/15 148/11 151/15 169/8 230/15 230/15 230/17 230/18 230/19 230/25 231/2 231/2 231/7 231/8 231/23 232/3 232/6 232/9 232/10 235/12 235/21 236/4 236/8 237/11 237/25 238/13 238/22 238/23 239/2
history [31] 75/22 76/1 77/3 77/13 89/23 92/5 92/13 99/18 99/19 100/2 100/8 100/13 100/16 101/21 102/3 102/4 102/9 102/14 102/17 102/24 103/1 103/9 103/12 103/16 103/18 118/8 134/1 161/24 161/25 162/1 162/3
hits [1] 180/2
hitting [1] 209/20
Holcombe [3] 2/4 233/1 233/23
hold [16] 5/2 11/9 168/5 181/13 181/25 182/4 182/15 183/6 183/19 184/3 199/12 199/16 199/21 221/4 221/11 223/10
holding [4] 121/1 135/11 135/12 135/13
holds [2] 168/9 224/5
holes [1] 135/3
home [4] 54/16 54/19 54/19 227/10
honest [2] 199/11 233/7
honestly [4] 199/19 200/2 208/2 208/3
Honor [132] 4/6 4/20 5/6 6/15 8/4 8/17 9/16 10/1 12/5 13/2 13/22 13/23 14/4 14/18 14/24 15/14 16/2 24/14 26/3 26/5 26/7 26/21 28/19 29/5 39/1 39/3 39/6 41/13 43/21 43/23 58/15 59/24 103/20 109/11 115/15 115/18 117/13 118/2 118/18 119/2 119/14 119/22 120/23 121/8 121/12 123/2 129/14 130/24 138/11 138/21 139/8 142/12 142/22 143/5 143/23 144/10 145/6 148/20

143/16 150/5 150/9 150/13 150/16 150/25 151/22 152/12 152/19 153/8 153/17 154/1 154/6 157/4 159/24 160/1 160/7 162/5 164/25 165/7 165/19 168/20 170/21 174/17 177/14 178/10 180/21 182/7 183/15 184/7 185/3 186/20 218/11 226/11 226/13 226/15 226/19 226/21 227/24 228/17 228/21 229/10 229/16 229/19 229/22 230/9 230/23 231/15 231/21 232/6 232/11 233/2 233/6 234/1 234/6 234/8 234/21 235/3 235/12 235/17 235/21 236/3 236/7 236/10 236/11 236/15 237/5 237/14 238/8 238/14 238/18 239/6 239/12 239/13
HONORABLE [1] 1/10
hop [1] 191/21
hope [1] 217/25
hopefully [3] 48/15 97/23 144/25
hoping [1] 95/17
hormone [1] 20/18
hospital [6] 31/11 31/12 70/7 124/5 124/17 125/18
hospitalized [1] 93/8
host [1] 98/7
hour [7] 44/18 44/21 44/25 46/14 46/17 71/20 71/22
hourly [1] 44/22
hours [35] 34/19 35/1 35/1 35/20 35/21 35/24 37/20 38/2 38/23 63/9 72/1 72/4 72/8 72/9 72/16 72/16 72/18 73/2 73/4 79/19 80/12 106/3 106/19 106/21 107/4 128/16 128/17 128/18 128/20 128/22 129/18 129/21 129/23 232/15 232/16
household [1] 41/8
HOUSTON [5] 1/2 1/4 2/6 2/11 2/14
how [89] 9/6 10/4 12/7 12/12 17/23 18/3 18/4 18/5 21/20 21/23 23/5 23/7 25/10 25/11 25/13 25/16 31/19 31/24 32/5 34/20 34/22 37/10 37/23 37/23 38/16 42/6 44/6 45/2 45/4 45/25 47/5 48/11 48/15 48/21 60/8 71/24 74/14 74/16 94/6 97/1 97/21 99/10 101/22 105/16 107/1 110/22 111/2 111/11 111/14 114/20 114/21 123/4 123/17 133/4 133/12 135/19 143/7 155/25 156/1 156/7 156/20 158/25 173/22 174/4 174/6 179/2 179/18 179/19 180/14 180/16 187/6 196/12 197/21 198/2 198/16 199/15 199/16 200/13 200/21 200/23 205/1 205/23 207/15 212/25 215/8 217/21 219/20 226/18 228/19
However [5] 10/22 52/10 148/1 148/4 148/6
HPLT [1] 128/12
huh [10] 43/2 81/19 172/13 174/2 175/24 176/12 191/7 193/13 218/19 222/16

human [4] 10/17 18/4 198/21 206/10	23/24 24/3 25/2 25/2 25/9 36/10 41/12 47/2 61/4 73/4 74/19 77/10 77/10 84/15 90/20 124/6 130/8 149/22 151/2 156/9 158/23 170/8 186/4 188/3 207/14 208/12 223/9 227/13 233/8	incident [1] 90/2 203/11 203/19
hundred [2] 14/10 44/23	i.e [2] 23/7 36/9	incidents [1] 115/25
hundreds [3] 179/5 179/11 182/20	idea [4] 49/24 135/19 196/7 228/10	incised [2] 172/17 172/18
hurt [2] 75/1 215/12	identical [2] 105/8 117/24	incision [2] 192/22 193/5
hurts [1] 215/11	identified [6] 5/22 31/19 105/17 116/20 120/2 133/21	include [12] 13/19 18/16 25/3 25/4 25/4 25/10 28/11 55/13 106/22 146/20 211/17 211/19
husband [1] 220/17	identifying [1] 59/14	included [7] 19/12 19/16 23/3 27/11 90/20 126/7 215/14
hydroxy [1] 56/7	if [272]	includes [15] 18/4 18/5 18/22 25/7 25/13 29/22 46/4 46/5 59/7 99/24 108/4 114/10 114/10 114/11 216/20
hydroxybutyrate [3] 19/13 87/14 146/8	ignore [1] 75/3	including [3] 217/5 217/10 229/2
hyper [2] 157/17 157/18	ill [1] 107/1	inconceivable [1] 46/9
hyperplasia [1] 157/13	images [1] 52/12	inconsistencies [2] 105/18 236/16
hypersensitive [1] 50/19	imagination [1] 118/5	inconsistency [4] 234/5 236/23 237/9 239/5
hypnotics [3] 55/11 56/11 106/11	immanently [1] 7/6	inconsistent [6] 99/16 111/17 119/12 234/13 235/4 235/8
hypo [2] 157/17 157/18	immediately [4] 35/7 38/15 191/19 213/9	inconsistently [2] 153/22 231/19
hypoplasia [7] 157/3 157/15 157/16 157/19 189/13 220/9 220/13	impacts [1] 146/15	increase [3] 48/4 48/8 50/7
hypothetical [2] 43/6 43/7	impaired [7] 37/4 64/12 64/12 81/4 81/4 134/3 147/25	increased [3] 36/25 136/9 136/12
I	Impairment [1] 18/13	increasing [3] 48/4 50/11 50/12
I'd [3] 86/17 153/21 178/5	impeach [1] 152/17	indeed [1] 232/4
I'll [33] 14/16 15/7 24/14 61/19 77/17 77/17 79/13 79/13 80/11 88/1 90/24 93/3 93/3 104/2 113/12 116/13 116/13 116/13 116/15 117/7 119/17 142/19 143/11 143/13 159/22 178/3 181/2 205/10 205/10 218/7 236/9 239/9 239/10	impeached [2] 237/18 238/14	independent [1] 75/8
I'm [153] 10/10 10/10 10/11 11/8 11/12 14/15 14/15 14/16 16/12 17/12 17/17 17/18 21/22 22/3 30/23 41/19 44/6 44/8 45/3 45/14 46/5 47/1 47/1 47/13 48/16 49/22 49/23 56/23 58/25 59/8 61/12 61/17 62/3 65/24 68/20 68/21 69/5 75/7 78/6 78/8 78/13 79/7 79/20 79/21 83/2 83/11 85/2 85/2 85/2 85/2 85/2 87/1 88/1 91/5 95/17 96/6 96/7 100/24 105/23 106/7 106/13 107/10 107/10 108/12 109/9 109/20 109/22 111/25 111/25 112/1 112/22 112/25 115/23 115/25 118/3 118/20 120/23 122/21 122/22 123/9 123/18 123/18 126/3 129/14 131/4 132/10 136/1 144/5 144/13 144/13 146/24 147/21 148/3 148/5 148/17 149/22 151/19 153/10 153/12 155/8 155/21 157/8 160/8 160/12 164/24 164/24 165/1 165/6 166/7 170/1 170/16 172/2 176/13 178/2 178/16 182/10 182/10 183/18 188/22 191/2 191/21 199/11 199/16 201/11 208/3 208/3 213/22 214/4 216/4 216/5 217/7 219/23 224/8 224/8 224/8 225/20 225/24 229/6 229/14 231/12 232/25 233/3 233/6 233/8 233/9 233/10 234/7 234/8 235/7 235/7 235/17 236/7 238/5	implant [46] 151/10 166/16 166/17 166/20 166/21 168/3 168/6 168/9 168/16 169/4 169/20 178/13 178/24 183/7 184/4 185/22 187/4 187/6 187/10 187/18 187/19 187/24 188/1 188/7 188/10 188/14 188/23 189/2 189/9 192/14 193/16 193/25 196/1 196/8 197/10 198/2 198/4 198/9 198/16 198/24 199/15 199/16 200/21 223/25 224/1 224/5	independently [1] 110/3
I've [37] 18/11 18/23 22/24	implants [27] 163/6 182/23 183/3 183/19 185/16 185/18 186/7 186/12 186/17 193/12 195/14 195/17 195/22 195/24 197/8 197/16 197/22 199/9 199/17 201/20 206/22 208/8 210/1 218/2 218/5 221/8 221/25	INDEX [1] 3/1
	implication [2] 34/21 223/1	indicate [7] 40/2 41/1 85/4 139/6 147/24 164/8 195/16
	implications [3] 189/19 220/9 220/12	indicated [3] 136/25 141/4 153/23
	implicit [1] 110/5	indicates [2] 61/24 66/13

I Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 258 of 282		
influence... [1] 133/4 information [20] 7/24 45/6 45/13 57/9 57/10 58/13 67/5 73/5 74/25 74/25 84/5 103/5 113/23 113/25 116/7 130/16 132/5 132/17 145/18 146/1 infra [15] 163/1 168/2 178/25 181/24 188/20 196/20 196/22 196/25 204/14 206/16 210/1 214/21 223/24 225/18 226/1 infra-mammary [15] 163/1 168/2 178/25 181/24 188/20 196/20 196/22 196/25 204/14 206/16 210/1 214/21 223/24 225/18 226/1 ingested [5] 40/7 52/2 53/24 97/14 97/25 ingesting [1] 72/10 ingestion [1] 98/23 ingredients [1] 26/9 inhibition [3] 21/21 49/9 52/7 inhibitions [4] 36/22 51/21 51/23 52/3 inhibitory [3] 21/19 22/2 22/3 initial [6] 30/23 65/7 133/25 172/1 172/2 211/1 initially [3] 45/17 167/8 222/21 injuries [1] 9/15 injury [12] 12/2 151/7 164/18 167/10 167/13 189/22 189/24 191/11 194/8 203/4 220/1 220/4 inquire [3] 16/1 154/23 170/12 inquiry [5] 43/22 77/16 106/18 111/16 123/13 inside [6] 168/8 175/24 187/4 188/8 189/3 212/20 instance [2] 112/6 153/24 instances [2] 36/10 217/21 instantly [1] 37/22 Instead [1] 219/6 instructions [1] 7/13 intact [1] 206/22 integrity [4] 183/6 184/3 199/6 224/7 intelligent [1] 233/4 intend [1] 152/13 interact [2] 48/22 97/21 interaction [2] 26/1 26/1 interchangeably [1] 94/25 intercostal [20] 172/23 173/1 173/2 173/3 173/23 174/20 175/10 175/15 175/16 189/23 190/6 190/9 190/16 190/20 193/3 193/5 194/9 195/1 219/16 220/4 intercostals [1] 187/5 intercourse [3] 90/11 91/18 120/11 interesting [1] 227/9 internal [2] 175/22 202/4 internally [1] 164/3 Internet [1] 41/7 interns [1] 227/5 interpret [4] 26/16 60/8 100/8 113/25	interpretation [8] 11/10 25/6 66/8 77/2 78/9 79/4 79/10 204/5 interpreted [2] 23/8 105/1 interpreter [1] 104/20 interpreting [1] 78/6 interview [2] 230/5 232/4 into [29] 15/25 21/7 21/8 36/15 39/7 46/9 47/15 48/12 58/4 58/5 75/1 75/15 89/11 105/13 110/11 115/22 119/4 135/18 145/17 154/21 172/25 174/3 190/9 199/8 199/15 211/5 220/15 221/6 226/9 intoxicated [20] 40/6 40/10 40/23 42/18 63/4 79/22 79/24 80/2 80/4 81/8 97/17 98/10 100/6 137/13 141/14 147/15 147/17 148/7 148/13 148/16 intoxication [14] 40/13 42/19 42/21 62/7 76/19 76/20 76/22 76/24 85/22 101/19 102/8 136/16 137/3 137/11 Intra [1] 175/16 introduce [2] 16/8 155/4 intuitively [1] 208/25 investigate [1] 10/4 investigating [1] 81/23 investigation [6] 10/4 10/9 27/12 69/14 82/4 214/10 investigative [4] 81/7 118/15 136/20 139/5 investigator [1] 238/9 investigators [2] 22/21 22/22 investing [1] 188/18 involved [4] 24/17 43/14 83/17 214/10 involves [1] 130/14 Iraq [20] 90/19 124/5 158/19 159/5 160/15 161/22 161/24 162/2 162/16 169/25 177/11 202/14 202/25 207/22 213/14 214/11 215/2 215/5 218/18 218/22 irrigated [1] 193/16 is [782] isn't [19] 8/3 24/5 73/22 74/6 87/8 88/23 103/9 129/11 131/6 136/1 136/1 143/3 175/11 183/3 187/15 192/13 197/19 210/18 234/3 issue [35] 4/24 6/18 7/8 8/14 8/18 8/19 15/3 15/5 32/4 39/25 40/5 40/12 41/4 57/11 58/2 58/5 70/13 76/22 80/25 84/15 90/1 99/13 100/19 105/16 111/6 119/3 135/2 135/18 144/3 149/11 149/23 160/1 179/18 201/13 234/20 issues [14] 4/25 40/21 73/18 100/18 100/23 105/13 105/17 118/7 128/3 177/21 197/14 199/7 199/15 211/23 it [650] it's [244] item [20] 5/9 5/9 5/11 61/12 62/21 63/4 64/2 64/10 64/17 64/22 79/19 79/21 80/12 81/2 101/4 101/9 101/9 101/16 102/12 106/17 Item 6 [1] 80/12 Item 7 [1] 64/2	Item 8 [1] 64/10 items [3] 43/8 112/4 121/6 its [9] 20/5 41/6 70/2 79/14 79/14 85/20 136/6 188/1 213/2 itself [3] 13/8 13/9 71/23 IV [1] 2/8 J Jacksonville [1] 16/21 JAMIE [22] 1/3 7/7 29/13 71/9 124/8 131/16 156/18 157/12 157/20 157/25 160/14 161/16 162/16 163/11 165/15 169/1 170/5 200/22 208/18 211/16 222/14 223/20 Jamie's [11] 124/12 133/18 159/5 160/3 162/3 163/22 166/14 168/14 168/18 208/23 220/1 Jersey [1] 17/15 Joanne [1] 2/3 job [4] 57/1 205/3 231/24 232/9 join [1] 4/11 joined [1] 4/10 Joint [2] 104/12 123/23 Joint 105 [1] 123/23 JONES [113] 1/3 5/4 5/17 6/19 7/7 7/23 7/25 8/2 8/25 9/7 9/22 10/18 12/9 27/13 28/3 28/15 29/13 30/7 30/13 31/7 33/19 39/18 59/14 60/5 60/22 64/14 67/21 67/23 68/4 69/3 69/21 71/2 71/9 72/10 73/7 75/10 78/18 78/21 78/23 79/4 83/5 89/7 89/16 90/19 91/23 91/24 92/7 92/23 93/7 94/3 96/23 99/3 99/9 100/13 102/22 103/8 103/10 114/20 124/8 128/7 131/17 133/22 135/4 142/8 143/19 143/21 144/15 145/4 145/11 145/16 146/3 147/11 147/15 147/22 147/23 148/7 151/22 151/23 151/24 156/18 156/22 157/12 161/17 164/9 167/24 168/11 169/1 171/15 171/25 181/17 185/10 186/18 189/12 191/25 194/12 195/16 196/12 197/8 200/22 202/13 204/3 204/6 207/21 208/18 211/12 211/16 211/22 212/14 214/19 215/7 218/17 232/15 232/16 Jones 000264 [1] 28/15 Jones' [31] 53/19 69/11 72/8 74/5 74/23 75/22 82/4 82/6 82/25 89/23 90/14 92/5 92/13 99/18 102/3 103/16 109/24 115/13 116/12 130/1 130/19 165/15 177/11 179/21 181/23 183/3 183/19 192/4 212/8 213/12 225/9 journal [2] 12/19 12/20 JUDGE [22] 1/11 10/12 11/5 14/2 57/1 61/14 70/11 77/10 78/13 79/17 104/5 109/20 110/24 112/22 114/18 118/21 119/7 121/25 122/17 149/6 228/23 229/12 judges [2] 23/2 23/3 judgment [2] 64/12 81/4

J Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 259 of 282		
July [24] 30/9 30/15 31/1 31/6 31/10 68/2 68/4 68/10 68/11 68/12 68/18 69/3 69/8 70/16 82/7 92/24 124/16 124/24 129/2 131/5 131/12 179/22 182/2 182/14 July 27 [1] 31/1 July 27th [10] 30/15 68/2 68/11 68/12 68/18 69/8 70/16 129/2 131/12 179/22 July 28th [5] 30/9 31/10 68/10 124/16 124/24 JUNE [4] 1/5 30/9 183/9 239/20 juror [1] 70/10 jurors [1] 130/7 jury [56] 1/10 4/2 10/15 13/25 15/10 16/9 24/25 26/12 47/4 47/19 48/15 57/24 66/23 77/9 87/7 90/15 90/16 92/9 104/6 117/9 117/10 118/2 122/24 123/5 123/11 125/17 125/22 127/23 128/1 130/1 130/15 130/17 131/15 132/1 143/9 150/20 150/21 150/23 152/3 152/11 152/13 154/10 154/11 155/5 160/11 165/4 165/20 166/1 176/5 178/5 178/23 227/18 227/19 228/7 228/8 237/24 jury's [3] 15/4 61/17 118/11 just [199] 4/13 5/2 8/8 9/10 11/9 12/14 12/19 13/12 14/6 15/7 19/8 20/11 26/12 31/9 31/10 31/14 32/4 36/4 38/20 39/3 40/23 42/12 45/4 45/11 45/14 47/7 48/7 51/16 52/4 54/18 56/15 56/22 57/3 57/16 58/8 58/10 61/13 62/1 62/2 62/3 62/6 64/5 65/21 65/21 66/22 67/2 70/5 70/11 73/20 76/18 77/23 78/6 80/10 80/23 80/24 82/20 82/20 82/21 83/11 84/8 84/20 86/21 89/13 89/14 90/7 90/21 90/24 91/3 92/1 92/11 92/17 92/24 93/14 93/25 94/12 94/13 94/14 94/24 94/24 95/4 99/7 99/22 100/1 101/2 101/17 102/1 102/6 104/2 104/5 104/7 114/25 117/19 117/24 121/8 121/22 122/20 123/1 123/4 129/8 130/14 130/16 131/15 133/15 134/11 134/19 135/8 135/22 135/23 136/13 136/25 137/15 138/15 139/15 140/15 143/11 143/13 143/17 144/12 145/25 146/24 148/2 149/20 151/11 153/21 157/8 160/7 162/19 163/3 163/14 165/2 169/23 171/14 171/17 171/22 173/1 173/7 176/5 178/5 178/22 179/13 180/15 182/3 182/5 182/5 182/14 182/19 183/13 187/20 188/10 188/14 189/15 189/22 190/5 190/7 190/8 190/22 190/23 195/6 196/23 198/9 198/9 198/19 198/20 198/24 199/14 200/6 200/11 202/3 204/2 205/23	207/5 207/15 208/5 209/1 208/21 208/25 209/17 210/22 212/19 212/22 215/11 216/16 218/24 219/10 219/13 221/14 222/24 224/16 225/4 226/8 230/19 231/1 233/14 233/15 235/8 235/24 236/1 237/11 239/6 just -- you [1] 207/15 justice [1] 163/21 K KBR [26] 1/6 1/7 2/2 4/9 123/18 151/24 157/6 159/14 159/20 160/4 170/16 172/7 185/4 192/18 194/12 202/15 211/3 212/1 214/2 219/8 224/11 226/8 232/9 232/22 234/16 236/12 keep [13] 57/12 78/25 91/13 91/13 111/10 119/8 160/11 187/13 187/15 188/11 188/20 200/5 217/23 keeping [2] 50/23 76/1 keeps [3] 188/1 188/6 188/10 KEITH [1] 1/10 KELLOGG [2] 1/6 1/7 Kelly [23] 1/14 1/15 6/14 9/11 15/7 44/9 44/15 45/17 59/10 59/13 82/22 150/25 151/20 152/9 180/7 185/10 199/24 229/24 230/3 230/16 230/16 231/24 232/3 Kelly's [3] 97/3 145/14 237/18 key [1] 130/18 kids [3] 22/6 22/7 22/7 kind [18] 12/10 24/12 57/16 111/15 116/7 138/24 167/16 183/7 185/16 187/2 194/19 197/17 199/13 209/2 222/3 228/18 229/19 229/20 kinds [1] 206/12 kit [1] 124/12 knew [2] 32/24 229/8 knock [2] 226/24 226/25 knocks [1] 21/3 know [119] 4/10 4/21 4/21 7/8 14/18 24/6 25/14 26/15 27/23 28/13 30/7 31/7 36/5 40/8 42/13 45/19 46/2 47/7 48/15 50/17 52/11 53/6 53/11 53/13 54/8 54/13 54/13 54/22 55/1 55/1 56/9 70/24 71/13 72/21 74/14 74/15 74/16 76/12 83/3 83/11 85/6 85/8 89/6 90/7 90/16 92/1 99/10 99/13 101/23 104/12 111/2 112/24 113/10 115/3 115/4 117/16 118/21 122/16 128/7 131/3 132/7 132/13 133/4 134/16 135/4 135/19 135/21 136/11 136/21 136/23 136/24 136/25 137/24 138/2 138/5 138/22 140/10 141/7 143/1 143/2 146/3 153/4 156/18 156/20 161/8 173/15 174/6 179/9 181/12 181/14 182/6 183/21 189/21 190/14 190/22 196/1 197/9 197/17 198/5 198/6 198/19 198/20 199/6 199/18 200/6 200/21 200/23 205/8	205/22 207/15 208/6 220/16 223/5 223/9 224/8 229/2 231/11 237/22 238/16 knowing [2] 50/22 75/5 knowledge [3] 31/13 97/10 140/13 known [2] 169/23 214/15 knows [1] 115/20 L lab [7] 25/6 26/16 70/5 84/11 125/17 125/21 125/23 lack [7] 7/9 49/8 52/3 52/7 83/6 136/9 234/10 ladies [11] 15/11 16/8 24/24 56/15 91/2 111/6 123/12 155/4 177/20 227/2 228/5 Lahiri [11] 14/20 149/12 149/21 151/1 151/16 152/2 152/14 155/1 155/6 186/24 218/8 Landstuhl [4] 28/17 66/16 67/8 104/24 language [1] 5/15 Lannie [1] 1/14 lapse [1] 93/12 large [8] 72/13 195/14 195/23 195/24 198/2 198/16 199/17 199/19 largely [2] 138/7 217/9 larger [5] 47/21 47/21 186/11 186/11 186/12 largest [1] 198/4 last [27] 5/14 11/5 11/7 11/12 23/23 30/2 40/1 42/24 46/1 47/5 82/17 82/18 106/16 142/3 160/14 180/13 180/14 180/16 180/17 180/19 181/15 206/23 216/4 216/8 223/2 224/17 224/19 lasting [1] 176/24 late [4] 15/12 23/21 232/15 232/16 later [17] 15/4 24/5 38/16 55/16 62/4 63/9 79/10 79/19 80/12 106/19 106/22 107/4 107/22 171/20 201/18 201/24 208/15 laterally [4] 180/12 181/6 182/3 182/15 law [13] 1/15 1/18 1/21 6/22 10/3 12/23 13/4 23/3 28/2 56/23 105/20 108/5 109/12 lawsuit [2] 152/15 186/25 lawyer [3] 133/10 178/7 178/8 lawyer's [2] 178/6 238/1 lawyers [5] 24/1 44/15 45/25 111/12 165/3 lawyers' [1] 165/3 lay [5] 6/9 64/3 64/3 64/4 80/19 layers [4] 174/8 178/13 188/21 215/21 layman's [1] 212/17 leading [1] 106/5 learned [3] 14/14 118/16 170/24 learning [1] 146/1 least [14] 13/24 18/21 26/10 87/18 96/17 99/11 114/24 135/4 139/2 153/19 189/5 189/10 210/4 229/10

L Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 260 of 282		
<p> leave [2] 21/10 43/16 leaves [4] 53/24 54/2 120/7 136/3 leaving [2] 31/11 160/4 lectures [5] 12/6 12/11 17/14 46/6 85/15 led [1] 163/10 left [28] 15/7 17/2 55/22 158/19 160/15 162/24 166/4 166/6 169/6 192/23 192/25 193/10 193/23 193/25 194/2 194/21 194/24 203/12 203/16 203/21 204/13 214/20 214/23 214/24 215/13 219/24 225/21 226/4 left-hand [1] 166/4 leg [2] 11/7 11/12 legally [1] 20/8 legitimate [4] 20/1 20/6 20/9 113/5 LEIGH [3] 1/3 71/9 156/18 length [7] 162/23 162/25 166/22 169/5 178/25 181/7 199/3 lengthy [1] 164/4 less [11] 35/20 47/22 50/20 89/23 187/22 197/24 197/25 206/19 216/16 216/18 218/4 lesson [1] 146/2 let [46] 8/15 34/15 36/1 39/1 39/12 48/14 49/15 50/25 53/9 54/6 68/7 71/23 85/12 85/25 89/13 90/23 95/4 100/1 104/5 104/6 104/10 107/5 112/21 113/12 113/12 116/13 116/13 119/17 120/22 139/1 147/19 151/20 160/6 166/25 169/17 173/21 174/3 178/3 188/4 194/23 195/15 198/12 203/3 206/25 224/16 235/25 let's [53] 14/21 15/6 32/14 36/18 47/9 48/9 48/17 49/6 54/17 59/18 65/22 66/19 68/7 70/20 75/18 77/17 77/25 78/2 84/20 90/24 91/1 91/14 93/15 93/22 93/23 101/1 101/1 101/2 114/17 114/17 115/22 122/22 125/2 126/12 136/15 142/24 149/9 150/6 150/7 152/8 164/5 166/25 174/24 180/1 185/4 185/5 212/1 214/2 221/17 224/12 228/5 234/25 239/9 letter [22] 70/3 122/1 122/7 160/19 160/22 161/10 161/16 211/23 211/24 212/3 212/6 212/8 212/23 213/10 213/19 213/23 214/3 214/7 214/8 214/16 224/15 224/25 level [19] 35/10 47/23 49/24 49/24 50/6 50/7 50/11 50/12 62/7 76/19 86/16 101/18 102/7 122/13 128/8 128/13 134/10 135/14 136/16 levels [6] 23/7 50/9 73/14 73/17 74/5 74/11 libido [4] 21/21 36/25 136/9 136/12 lie [2] 233/10 235/4 life [12] 34/16 34/16 34/19 </p>	<p> lifetime [1] 156/11 lift [1] 107/11 lifted [1] 107/12 lifting [1] 210/14 light [1] 26/7 like [79] 9/12 19/8 19/24 22/4 26/10 29/14 36/4 37/6 38/6 38/8 38/21 46/8 52/13 52/13 59/14 60/4 61/19 64/14 79/15 84/12 91/6 91/10 92/21 94/19 99/23 108/20 108/22 111/12 112/24 113/14 115/21 116/13 116/23 118/11 119/22 119/24 123/5 123/6 133/23 134/11 141/24 142/10 142/14 148/23 149/25 150/1 153/21 156/14 161/15 164/18 165/19 168/9 171/8 171/21 173/15 173/16 177/21 178/16 180/8 182/11 191/4 196/9 196/23 197/18 197/18 201/17 209/1 210/13 211/3 211/5 216/25 220/10 229/10 230/19 235/1 236/1 236/3 236/23 236/25 likelihood [1] 182/17 likely [18] 35/20 40/3 43/13 86/5 87/12 87/16 169/18 170/4 170/7 179/22 180/12 180/17 182/4 211/12 217/12 217/21 218/4 223/2 likewise [2] 102/12 113/5 limine [1] 7/21 limit [6] 6/8 10/16 13/10 198/2 198/5 198/16 limitations [6] 25/8 25/15 73/25 74/19 75/13 76/13 limited [4] 6/17 7/12 7/20 20/10 limits [1] 5/15 line [15] 85/10 101/1 101/1 101/2 101/3 102/21 104/20 122/15 142/15 181/2 182/11 183/18 184/1 185/5 230/10 lines [2] 49/13 67/17 lining [1] 158/17 list [25] 26/11 58/20 61/23 84/6 108/14 108/15 110/6 112/4 113/3 117/14 117/16 117/18 117/21 117/23 117/24 117/25 119/11 119/12 119/15 119/15 119/20 121/20 126/2 215/17 229/13 listed [3] 113/22 124/15 126/10 lists [2] 8/6 26/23 lit [1] 117/15 literally [1] 189/3 literature [17] 57/22 66/5 88/4 88/11 89/9 105/25 105/25 106/1 106/6 106/8 106/12 107/11 107/14 110/16 114/14 209/9 209/12 litigation [1] 14/12 little [44] 15/25 17/22 35/2 35/24 38/6 44/8 45/16 47/16 47/16 49/19 55/15 76/4 82/15 91/9 94/11 95/4 96/20 112/2 112/2 124/18 136/15 136/17 137/2 137/4 137/19 138/15 148/2 152/4 152/7 158/9 </p>	<p> 165/15 171/21 174/6 180/9 187/2 190/15 190/15 190/22 191/21 194/18 200/7 205/23 210/23 234/25 live [6] 228/20 228/23 228/25 229/1 229/4 235/23 living [4] 16/11 22/20 44/16 155/7 LLP [1] 2/9 located [1] 176/7 Loewe [4] 15/18 121/16 121/18 154/14 logic [3] 70/1 70/1 70/7 logical [1] 70/2 long [33] 8/8 8/8 34/13 34/20 34/22 52/24 55/3 71/24 90/3 90/8 112/1 118/7 144/25 144/25 154/2 162/23 163/1 166/23 169/5 170/24 176/24 179/1 180/14 180/16 191/14 191/20 199/12 199/15 207/15 221/16 223/24 223/24 224/6 long-lasting [1] 176/24 long-term [1] 52/24 longer [13] 35/3 38/3 44/8 52/1 52/8 87/13 87/16 160/12 169/6 210/24 216/13 226/22 231/16 look [77] 9/1 9/6 12/21 19/5 20/24 23/6 24/6 24/6 30/24 33/15 45/6 45/14 45/19 45/20 47/25 54/23 56/4 56/5 57/23 58/3 58/10 60/25 75/16 75/17 77/25 78/2 78/2 81/22 82/10 85/6 85/18 90/6 90/21 93/5 94/18 105/12 110/9 110/10 110/13 112/18 112/19 113/16 114/9 116/19 117/22 122/16 123/8 124/18 125/25 126/16 127/17 133/6 134/13 146/5 146/6 147/1 147/19 163/22 166/25 181/2 184/20 192/16 194/11 199/4 199/5 202/15 204/9 209/1 209/21 212/1 214/2 220/16 222/3 233/8 236/9 237/24 239/10 look at [1] 24/6 looked [29] 7/1 18/8 31/10 33/4 33/6 33/24 47/7 68/1 68/9 69/11 69/14 69/17 82/3 82/5 82/6 82/12 90/20 99/22 99/22 108/14 116/6 136/22 140/12 151/22 151/23 164/9 173/14 205/1 205/24 looking [38] 5/16 17/21 25/24 31/17 34/24 35/19 35/21 49/17 58/3 63/16 63/17 70/9 73/14 75/16 82/19 82/21 84/4 85/7 100/20 107/2 130/15 130/17 131/3 133/2 145/23 147/21 159/6 160/8 160/11 160/22 162/20 163/10 166/8 166/11 172/22 219/6 222/8 234/22 looks [8] 17/23 18/3 26/11 108/19 163/23 187/20 187/21 216/25 loose [2] 190/21 190/24 lose [2] 100/1 102/9 losing [2] 78/19 79/14 loss [8] 95/19 95/21 147/24 204/14 206/16 214/20 225/18 </p>

L Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 261 of 282		
loss... [1] 226/1	manager [1] 232/10	177/23
lost [4] 96/7 96/7 97/5	manner [1] 118/16	178/9 178/11 178/22 180/21
181/24	manual [10] 10/4 59/6 105/22	180/22 182/7 182/8 183/15
lot [30] 9/11 21/7 21/13	107/8 107/12 110/20 114/6	183/16 184/9 185/24 188/17
22/18 22/19 36/5 37/2 51/15	114/7 118/15 222/9	199/12 199/18 200/19 200/19
55/14 56/4 70/17 92/17 95/5	manuals [2] 105/13 106/24	200/20 205/22 205/24 207/18
97/9 100/23 108/21 130/14	many [31] 19/20 23/19 24/1	208/10 214/15 220/19 226/16
132/4 135/16 135/17 136/23	25/23 29/16 45/2 45/4 46/25	235/24
153/20 156/9 176/10 176/25	55/7 56/19 58/9 74/14 94/22	maybe [15] 13/23 21/17 24/16
177/22 190/7 219/16 220/14	99/10 109/18 114/20 135/20	37/15 45/9 53/4 71/20 76/25
224/7	146/10 155/25 156/1 156/7	80/22 96/21 103/21 140/4
loud [2] 26/14 65/1	158/25 173/22 174/4 174/6	174/7 180/5 203/23
Louis [1] 20/14	176/19 179/2 199/14 217/11	McKinney [13] 2/8 2/9 11/11
love [1] 138/1	217/21 228/19	28/14 44/6 115/20 119/5
low [7] 20/18 36/19 50/6	March [4] 160/18 160/19 172/3	119/18 119/25 136/17 137/22
50/7 50/18 74/3 83/15	199/25	186/21 232/24
lower [8] 35/10 51/21 51/23	March 5th [1] 199/25	McKinney's [1] 117/20
51/23 52/3 96/16 104/20	marching [2] 91/13 91/13	MD [1] 155/6
167/3	Marie [1] 1/21	me [118] 7/22 8/15 9/3 10/19
lumped [1] 46/9	marijuana [1] 52/13	11/14 12/17 16/19 24/2 24/7
lunch [2] 149/15 149/24	mark [6] 75/15 80/7 142/14	24/23 26/4 30/9 34/15 36/2
lung [11] 158/15 158/17	143/8 143/14 238/25	37/8 37/10 39/1 39/12 40/3
172/24 173/9 173/12 173/13	marked [3] 50/8 143/1 239/7	40/7 41/10 41/14 41/20 47/3
173/17 173/19 173/24 175/24	marks [1] 199/6	48/14 48/14 49/15 50/25 53/8
176/1	massage [1] 197/5	54/6 67/4 70/10 71/23 72/15
lungs [2] 158/14 176/6	masses [3] 204/15 206/16	78/7 78/16 79/2 79/9 80/2
lymphadenopathies [1] 204/15	226/2	80/10 84/16 85/12 85/25
lymphadenopathy [2] 206/17	Master's [1] 16/24	89/10 89/13 90/23 90/23 92/2
226/2	match [2] 136/17 137/4	92/25 93/14 95/4 95/10 97/6
M	mater [1] 85/6	100/1 104/5 104/7 104/10
ma'am [6] 124/14 181/11	material [2] 107/19 108/5	107/5 111/10 112/20 113/12
183/12 200/24 206/21 209/24	math [4] 73/10 74/2 85/2	114/7 119/8 119/15 119/16
mad [1] 132/10	170/24	120/5 120/22 122/15 127/16
made [19] 9/22 32/6 47/5 81/5	Matt [1] 115/11	128/12 130/6 130/12 136/3
81/22 94/21 96/8 101/23	matter [21] 8/9 11/23 15/20	137/2 137/10 139/1 140/15
115/1 139/12 145/20 167/4	33/15 34/25 40/19 91/5 96/16	141/1 145/6 146/8 146/10
171/25 185/19 192/22 193/5	149/25 154/17 199/2 231/17	147/19 153/1 155/9 155/10
198/4 202/12 238/11	231/22 232/1 232/13 233/9	158/4 158/17 158/25 160/6
magnitude [2] 216/16 216/16	233/11 233/21 234/9 234/11	162/1 162/18 166/25 169/17
mail [3] 82/6 82/22 82/25	237/7	170/24 173/21 174/3 178/18
mails [1] 82/19	matters [1] 66/9	184/19 184/24 186/6 188/4
main [3] 2/5 132/2 221/12	maximum [2] 128/20 128/24	194/23 195/15 198/12 200/9
mainly [1] 75/16	may [163] 4/20 7/4 7/10 7/11	203/3 203/14 205/16 206/25
maintain [5] 180/12 180/15	8/8 16/1 16/2 18/5 18/15	208/5 213/16 215/7 215/14
181/6 188/20 188/23	18/16 19/1 19/3 19/19 19/20	219/21 224/16 225/25 228/21
major [4] 175/3 175/8 178/15	19/21 21/2 21/16 22/12 22/13	229/14
220/20	23/7 24/1 25/5 25/10 25/12	mean [69] 4/18 11/17 14/3
majority [2] 23/21 135/13	25/16 26/2 26/3 28/19 28/20	23/7 24/7 25/7 25/14 30/20
make [37] 9/19 15/23 18/25	29/5 29/6 29/16 29/23 35/2	31/16 31/20 31/25 32/25 33/2
22/7 26/11 26/13 31/14 32/12	36/14 36/21 36/21 36/22	40/25 41/6 77/16 79/14
33/23 41/19 43/8 43/9 46/1	36/24 36/24 37/14 37/19 38/1	100/17 103/23 113/7 118/7
48/14 84/14 86/17 88/15 91/6	38/6 38/19 38/20 38/25 39/3	122/19 124/6 124/25 125/4
91/10 92/1 93/3 93/4 118/3	40/10 41/2 41/13 41/16 45/8	130/8 131/9 133/3 133/25
118/12 121/10 121/17 130/6	45/12 45/12 45/13 47/1 48/8	135/9 140/20 141/24 144/1
136/7 149/20 152/5 152/5	48/10 48/23 51/12 52/19	153/6 153/10 158/4 158/6
153/21 154/20 157/22 200/18	52/20 53/15 53/16 54/24	164/21 166/6 167/3 171/17
208/21 223/21	55/15 56/4 57/20 58/15 58/16	173/12 173/13 173/14 177/1
makes [1] 220/25	59/2 59/23 61/14 61/16 63/10	184/11 188/8 188/9 190/2
making [6] 31/20 44/16 92/13	65/1 65/8 70/6 74/14 75/19	190/2 190/13 190/20 191/2
94/20 130/10 130/10	75/20 80/13 83/8 90/20 97/1	191/10 195/3 198/4 198/18
malposition [7] 166/17 168/7	97/7 97/8 97/21 103/20	198/18 199/7 200/9 202/2
168/17 169/4 169/21 178/24	106/12 106/20 117/12 118/10	203/15 205/4 208/25 212/22
208/22	119/1 119/2 120/23 128/9	217/11 231/9 231/11 235/5
mammary [15] 163/1 168/2	128/10 129/16 129/17 131/4	meaning [6] 48/3 162/25 163/6
178/25 181/24 188/20 196/20	132/6 133/3 135/8 135/14	187/8 189/13 194/7
196/22 196/25 204/14 206/16	135/20 138/11 138/12 138/21	means [6] 44/16 93/17 107/25
210/1 214/21 223/24 225/18	140/5 140/14 141/8 142/12	134/10 162/23 165/2
226/1	142/16 144/9 145/19 149/4	meant [8] 132/1 203/17 212/22
man [2] 114/5 227/5	152/16 153/13 154/23 157/4	214/4 222/20 222/21 222/23
	157/5 159/6 162/5 162/6	235/3
	164/25 165/7 165/8 168/20	meas [1] 87/12
	168/21 170/20 170/22 174/16	measure [2] 60/16 64/18

M Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 262 of 282		
meat [1] 190/15	147/20 150/22 165/22 173/15 178/2 180/19 181/15 182/5 186/7 201/16 201/18	69/19 80/12 85/8 86/13 86/1 86/5 86/6 86/9 86/20 86/23 87/1 87/12 87/14 87/16 88/16 96/20 104/6 106/11 106/19 106/21 111/21 111/22 112/1 128/12 131/4 131/6 143/17 149/9 156/14 162/24 165/18 166/20 167/3 167/4 167/5 167/20 167/21 170/4 171/8 171/21 172/14 173/7 174/3 176/10 176/24 178/5 178/9 180/9 183/2 187/20 187/21 194/6 194/6 194/7 195/4 195/6 195/8 196/6 200/7 205/16 210/23 216/17 221/20 221/21 228/19 228/23 228/24 229/1 239/10
mechanical [2] 1/24 198/15	mike [1] 15/25	morning [34] 4/3 4/3 12/10 13/19 15/16 16/6 16/7 30/16 31/2 31/6 31/8 32/1 32/19 32/22 33/20 33/22 40/7 40/8 44/3 51/18 73/11 75/24 82/7 91/4 128/15 132/2 132/13 135/15 135/21 144/8 147/10 149/24 228/6 233/17
mechanism [5] 108/7 111/4 145/20 145/20 147/6	mild [3] 98/21 206/16 226/1	Morris [2] 1/21 1/21
mechanisms [2] 58/11 146/13	mildly [1] 117/4	most [15] 21/2 29/19 31/18 35/8 40/3 40/14 108/9 169/18 170/7 182/25 197/9 209/14 210/19 216/22 217/12
medical [46] 6/3 6/4 6/4 9/22 9/23 9/24 17/2 20/1 20/6 20/9 27/12 28/10 32/17 67/7 69/9 70/16 70/18 71/16 71/18 74/22 84/12 86/9 89/9 89/15 93/4 131/16 133/23 133/25 134/17 134/19 151/5 155/13 156/25 157/2 164/8 167/9 170/9 177/22 189/12 198/15 208/17 209/8 209/9 209/12 217/12 220/19	milligram [5] 49/18 73/7 73/11 73/12 74/4	mostly [2] 180/6 185/18
medically [3] 53/19 56/8 222/3	milligrams [2] 49/19 72/22	mother [1] 197/6
medicine [2] 56/23 145/22	millimeter [1] 173/16	motion [6] 6/8 7/21 119/8 143/24 188/15 233/7
medium [1] 83/15	millimeters [1] 190/22	motor [4] 64/12 81/4 209/5 209/14
meet [1] 156/22	mind [10] 11/4 11/17 36/13 57/12 65/22 76/1 80/7 95/18 100/1 192/13	mouth [1] 178/6
meeting [1] 170/17	minded [1] 227/7	move [5] 49/8 64/25 114/17 114/17 122/22
meets [2] 57/6 99/23	mine [1] 156/21	moved [1] 17/22
Members [2] 154/11 227/19	minimum [2] 72/2 128/21	movement [1] 190/7
memories [3] 65/1 94/20 94/21	minor [5] 175/5 175/7 175/11 178/15 187/4	moving [2] 94/22 95/22
memory [24] 9/13 37/23 38/8 38/9 42/16 54/4 54/4 54/5 57/19 57/20 78/19 79/25 93/12 95/19 95/21 100/3 100/14 120/19 136/9 137/24 138/8 178/3 178/8 214/13	minute [6] 65/21 94/12 151/11 227/16 228/21 233/22	Mr [3] 8/16 12/6 15/7
mental [3] 217/6 217/10 217/13	minutes [7] 14/23 15/7 38/3 38/23 63/5 79/23 150/4	Mr. [49] 6/14 9/11 9/22 11/11 28/14 40/9 44/9 44/15 45/17 81/7 82/22 97/3 101/23 115/20 117/20 119/5 119/18 119/25 134/2 136/17 137/22 141/13 145/14 149/13 149/17 150/25 151/20 152/9 153/23 154/6 180/7 185/10 186/21 191/15 199/24 201/13 221/24 229/24 229/25 230/2 230/3 230/12 230/16 230/16 230/24 231/24 232/3 232/24 237/18
mention [5] 40/18 42/15 42/24 204/16 204/19	mirror [1] 220/17	Mr. Adams [2] 230/2 230/24
mentioned [18] 40/22 47/19 80/20 131/5 131/19 132/2 134/6 140/15 140/23 141/12 147/10 163/8 168/11 189/12 191/16 191/21 208/9 239/8	mischaracterizes [1] 177/17	Mr. Adams' [2] 229/25 230/12
Mentor [3] 185/20 185/21 221/24	miscommunications [2] 10/13 11/7	Mr. Arroyo's [2] 149/13 149/17
Mentor's [1] 186/5	misconstruing [1] 139/9	Mr. Bortz [4] 9/22 40/9 81/7 101/23
mess [1] 126/3	misinterpretation [1] 92/15	Mr. Bortz' [2] 134/2 141/13
met [7] 44/4 102/18 122/20 123/18 151/20 156/23 222/21	misleading [2] 10/6 122/14	Mr. Hedges [4] 153/23 154/6 191/15 201/13
metabolism [5] 36/14 48/21 86/19 97/20 128/19	misplaced [1] 171/15	Mr. Hedges' [1] 221/24
metabolized [2] 74/16 135/10	misrepresents [1] 121/9	Mr. Kelly [18] 6/14 9/11 44/9 44/15 45/17 82/22 150/25 151/20 152/9 180/7 185/10 199/24 229/24 230/3 230/16 230/16 231/24 232/3
Methadone [1] 127/1	missed [2] 79/20 200/15	Mr. Kelly's [3] 97/3 145/14 237/18
methamphetamine [2] 52/13 127/8	missing [1] 41/25	
methamphetamines [1] 52/25	misspelled [1] 32/4	
method [12] 14/11 73/22 107/16 108/16 109/4 110/3 110/4 110/10 111/1 111/3 113/6 145/18	mistake [1] 93/4	
methods [1] 109/13	misunderstanding [1] 196/24	
Mexican [2] 64/2 80/18	misunderstandings [1] 10/13	
Miami [1] 155/15	misunderstood [3] 11/8 11/13 129/16	
mic [1] 154/21	mixed [5] 36/9 36/12 40/1 42/25 137/16	
Michael [1] 151/23	mobilized [2] 190/8 190/19	
microphone [1] 145/7	mobilizing [1] 190/5	
mid [1] 23/21	moderate [3] 98/21 206/15 226/1	
middle [6] 93/24 98/7 132/12 161/21 196/5 216/23	modify [3] 103/4 103/6 103/19	
might [28] 11/8 11/12 32/23 49/18 60/8 60/9 60/22 62/1 62/1 62/17 83/5 83/12 97/17 97/19 97/25 98/18 141/2	moment [5] 61/15 92/4 102/19 103/20 160/7	
	moments [1] 152/2	
	Monday [4] 227/12 228/6 228/14 228/17	
	money [3] 46/1 47/2 47/5	
	monitoring [1] 50/15	
	month [6] 156/10 156/12 171/2 171/4 218/25 219/4	
	monthly [1] 155/25	
	months [25] 38/24 45/13 52/16 57/13 90/18 171/20 172/4 172/5 172/6 180/13 180/18 181/15 183/11 183/13 197/17 200/8 207/6 207/8 207/9 207/18 207/19 208/6 208/15 210/7 210/21	
	months' [2] 210/4 210/8	
	mood [1] 49/9	
	more [96] 10/21 11/7 13/9 13/17 17/23 19/8 21/17 21/17 23/24 30/21 38/19 40/6 42/18 43/13 43/19 47/16 47/22 49/19 50/8 50/8 50/9 50/19 51/12 55/10 55/25 56/3 63/9	

M Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 263 of 282		
<p>Mr. McKinney [10] 11/11 28/14 115/20 119/5 119/18 119/25 136/17 137/22 186/21 232/24</p> <p>Mr. McKinney's [1] 117/20</p> <p>Mrs. [4] 15/18 71/2 121/16 121/18</p> <p>Mrs. Jones [1] 71/2</p> <p>Mrs. Loewe [3] 15/18 121/16 121/18</p> <p>Ms [6] 12/9 27/13 82/6 151/22 154/14 225/9</p> <p>Ms. [126] 5/17 6/19 8/25 9/7 9/22 10/18 28/3 29/13 30/7 30/13 31/7 33/19 39/18 53/19 59/14 60/5 60/22 64/14 67/21 67/23 68/4 69/3 69/11 69/21 72/8 72/10 73/7 74/5 74/23 75/10 75/22 78/18 78/21 78/23 79/4 82/4 82/25 83/5 89/7 89/16 89/23 90/14 90/19 91/23 91/24 92/5 92/7 92/13 92/23 93/7 94/3 96/23 97/6 99/3 99/9 99/18 100/13 102/3 102/22 103/8 103/10 103/16 114/20 115/13 116/12 128/7 133/22 135/4 142/8 143/19 143/21 144/15 145/4 145/11 145/16 146/3 147/11 147/15 151/23 151/24 156/22 164/9 167/24 168/11 171/15 171/25 177/11 179/21 181/17 181/23 183/3 183/19 185/10 186/18 186/21 189/12 191/25 192/4 194/12 195/16 196/12 197/8 202/13 204/3 204/6 207/21 211/12 211/22 212/8 212/14 213/12 214/7 214/8 214/9 214/17 214/18 214/19 215/7 218/17 221/2 224/16 226/14 232/15 232/16 233/1 233/23</p> <p>Ms. Cullen [4] 97/6 186/21 221/2 226/14</p> <p>Ms. Falanga [6] 214/7 214/8 214/9 214/17 214/18 224/16</p> <p>Ms. Holcombe [2] 233/1 233/23</p> <p>Ms. Jamie [1] 29/13</p> <p>Ms. Jones [88] 5/17 6/19 8/25 9/7 9/22 10/18 28/3 30/7 30/13 31/7 33/19 39/18 59/14 60/5 60/22 64/14 67/21 67/23 68/4 69/3 69/21 72/10 73/7 75/10 78/18 78/21 78/23 79/4 83/5 89/7 89/16 90/19 91/23 91/24 92/7 92/23 93/7 94/3 96/23 99/3 99/9 100/13 102/22 103/8 103/10 114/20 128/7 133/22 135/4 142/8 143/19 143/21 144/15 145/4 145/11 145/16 146/3 147/11 147/15 151/23 151/24 156/22 164/9 167/24 168/11 171/15 171/25 181/17 185/10 186/18 189/12 191/25 194/12 195/16 196/12 197/8 202/13 204/3 204/6 207/21 211/12 211/22 212/14 214/19 215/7 218/17 232/15 232/16</p> <p>Ms. Jones' [25] 53/19 69/11 72/8 74/5 74/23 75/22 82/4 82/25 89/23 90/14 92/5 92/13</p>	<p>89/36 102/12 103/16 115/13 116/12 177/11 179/21 181/23 183/3 183/19 192/4 212/8 213/12</p> <p>much [22] 19/8 35/19 38/12 45/25 47/5 48/11 85/18 86/10 96/19 99/15 111/11 129/25 149/5 150/2 187/22 198/10 198/20 210/12 217/5 218/8 226/17 239/14</p> <p>multiple [3] 26/1 58/6 58/6</p> <p>muscle [35] 20/19 172/17 172/24 173/1 173/2 173/3 173/23 174/20 177/11 177/13 187/7 187/10 187/11 187/13 187/15 187/17 187/19 187/23 187/25 187/25 188/1 188/7 188/18 189/24 190/3 190/3 190/6 190/9 190/16 190/20 191/3 193/3 194/9 195/1 219/16</p> <p>muscles [2] 189/23 191/1</p> <p>must [1] 164/7</p> <p>muster [1] 118/4</p> <p>my [104] 4/22 11/18 14/16 14/24 16/10 16/21 17/1 17/7 18/11 18/14 18/18 21/20 21/22 22/3 22/23 23/21 23/24 24/17 25/1 27/3 27/7 28/2 31/13 39/1 46/4 46/9 54/7 54/16 59/7 60/2 60/12 74/2 76/24 77/4 79/9 79/9 84/10 84/10 84/17 86/23 91/4 97/5 97/10 99/16 99/16 102/20 103/4 103/19 103/21 106/9 111/1 113/20 114/23 118/12 119/4 119/10 120/22 123/9 128/2 129/8 129/17 130/8 130/9 130/11 130/12 130/13 130/14 130/16 132/10 133/10 142/20 144/17 145/8 147/14 155/6 155/10 160/6 162/8 170/16 171/20 178/3 184/24 186/24 192/5 194/1 198/6 200/6 200/10 200/20 205/10 207/7 207/7 207/13 208/5 210/13 210/22 216/6 216/7 220/15 220/22 222/22 223/4 226/5 228/13</p> <p>myself [1] 164/18</p>	<p>necessary [2] 4/11 110/23</p> <p>necessitate [1] 10/14</p> <p>necessity [1] 220/19</p> <p>need [29] 13/8 14/23 44/10 53/13 78/15 91/3 91/9 91/12 103/25 107/21 118/1 118/5 129/10 142/20 143/13 150/10 152/17 153/13 169/7 176/15 184/6 197/10 199/12 209/25 223/12 226/25 227/14 229/4 229/14</p> <p>needed [3] 194/7 213/13 228/11</p> <p>needs [11] 31/19 31/21 31/21 84/14 167/21 167/25 176/15 223/21 223/22 223/25 223/25</p> <p>negative [21] 5/19 33/12 104/23 124/21 125/23 126/20 126/22 126/22 126/24 127/1 127/3 127/5 127/9 127/14 127/21 128/10 128/14 189/16 189/19 220/8 220/12</p> <p>nerve [8] 176/10 176/19 176/22 176/25 179/18 191/15 223/16 223/18</p> <p>nerves [1] 176/10</p> <p>nervous [1] 48/12</p> <p>never [15] 23/25 32/16 47/7 48/15 60/3 65/22 118/24 152/20 153/1 180/15 186/4 186/5 188/3 209/6 223/13</p> <p>new [11] 17/15 52/12 57/9 58/12 91/18 103/4 110/11 139/14 146/1 146/23 231/24</p> <p>newer [1] 168/7</p> <p>next [44] 8/6 13/18 14/17 21/20 32/2 51/17 75/24 104/14 104/15 104/16 104/17 104/17 105/9 119/17 127/8 130/4 132/13 132/23 137/5 137/19 142/14 144/9 149/12 151/1 161/16 179/24 180/4 183/9 183/10 193/11 193/20 194/11 201/16 204/10 206/14 225/24 226/20 227/3 228/10 228/17 229/3 229/13 233/17 234/17</p> <p>nice [2] 73/18 205/4</p> <p>night [3] 105/10 132/12 229/12</p> <p>nine [25] 13/11 84/18 84/19 84/21 99/24 112/4 112/11 156/12 169/14 171/6 171/7 171/19 172/4 172/5 183/11 183/13 200/8 207/6 207/8 207/9 207/18 207/19 208/6 208/14 218/25</p> <p>nine-month [1] 218/25</p> <p>Nineties [1] 23/21</p> <p>nipple [1] 166/22</p> <p>no [162] 4/18 4/18 4/19 5/4 8/5 8/9 12/4 12/25 13/9 14/6 27/3 30/20 31/13 32/19 33/15 34/1 34/6 34/8 36/4 37/25 39/15 39/15 42/16 44/5 47/7 49/24 52/1 52/8 53/9 53/9 53/22 54/4 55/24 56/2 57/24 64/18 66/5 66/7 66/25 67/16 69/23 70/9 71/10 74/18 74/21 74/21 76/11 77/13 77/14 77/23 78/1 78/6 79/7 79/8</p>
N		
	<p>name [13] 16/10 19/4 30/3 32/3 70/21 112/20 112/24 115/7 115/10 115/12 155/6 170/16 186/24</p> <p>named [1] 227/5</p> <p>names [1] 115/3</p> <p>narcolepsy [1] 20/11</p> <p>narrowly [1] 6/12</p> <p>National [1] 113/15</p> <p>natural [2] 187/20 187/21</p> <p>naturally [2] 184/17 184/17</p> <p>nature [3] 46/13 99/6 134/13</p> <p>Nausea [1] 149/1</p> <p>Navy [1] 172/22</p> <p>near [2] 12/3 12/3</p> <p>nearest [1] 15/17</p> <p>nearly [1] 87/8</p> <p>necessarily [11] 43/7 72/24 88/24 90/13 96/25 125/3 125/25 173/10 186/14 186/16</p>	

N Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSP Page 264 of 282		
no... [108] 79/25 80/9 80/10 80/24 81/5 81/6 81/9 82/18 82/24 83/2 83/6 83/14 83/19 84/2 84/4 85/6 85/8 87/4 88/16 89/8 89/15 93/25 96/25 97/8 99/13 100/3 100/14 101/21 103/25 105/1 115/22 116/2 117/19 119/24 121/25 128/1 131/16 141/4 142/1 143/25 145/13 145/17 147/13 148/17 151/2 151/11 154/4 154/7 154/8 159/21 161/3 161/4 161/14 165/21 170/19 171/24 174/10 174/23 176/2 176/15 177/15 184/23 188/3 188/25 189/16 189/19 189/21 191/12 192/20 193/9 194/10 194/21 195/9 197/12 198/10 199/6 199/23 200/16 204/15 204/15 204/21 206/16 206/16 211/8 211/11 213/4 214/14 219/7 220/4 222/10 225/1 226/2 226/2 226/6 226/11 226/13 226/25 230/17 231/16 234/1 234/18 235/7 235/7 235/17 236/20 237/1 239/12 239/13 nobody [1] 148/15 Nodding [1] 181/19 noise [1] 65/2 non [4] 6/5 57/21 66/8 129/3 non-consensual [1] 6/5 non-detected [1] 129/3 non-peer-reviewed [2] 57/21 66/8 none [9] 34/3 74/20 126/10 134/10 135/23 179/9 179/10 179/16 182/21 nonetheless [1] 87/21 noon [1] 74/12 nor [3] 30/6 122/4 132/20 normal [13] 20/23 23/16 97/15 98/3 114/21 137/9 141/9 184/20 184/23 184/24 208/7 216/9 216/20 normally [5] 7/16 21/5 37/3 38/17 41/18 nos [1] 81/18 not [369] note [32] 66/12 83/25 96/8 189/24 192/12 194/15 194/20 195/12 196/14 197/20 199/18 199/24 200/18 202/12 202/19 202/23 204/20 204/24 206/14 206/21 209/23 211/13 211/15 211/25 212/4 213/8 213/19 213/24 214/25 215/2 216/4 239/7 noted [2] 83/20 192/13 notes [14] 103/21 200/20 200/25 201/2 201/9 205/9 205/10 205/19 205/20 205/21 208/22 213/19 230/4 232/4 notes from [1] 232/4 nothing [8] 5/20 15/21 75/23 85/8 130/3 151/12 154/18 226/15 notice [4] 84/6 126/9 129/2 201/8 noticeable [1] 50/9	noticeably [1] 115/3 November [8] 177/13 183/4 183/8 183/21 184/18 184/21 191/25 194/13 November 23rd [1] 194/13 now [75] 5/5 11/17 14/19 15/20 31/5 35/2 35/17 45/24 46/12 46/22 48/6 49/5 49/21 50/25 51/25 58/20 59/1 59/18 60/9 60/15 65/5 66/11 67/23 68/6 73/1 83/20 84/3 87/25 90/25 91/11 91/21 92/4 97/7 97/11 98/20 99/12 101/12 101/13 105/4 110/19 119/7 121/20 129/10 133/21 137/19 140/8 152/20 154/17 155/20 158/8 160/23 162/18 163/8 163/25 168/7 175/22 181/21 196/23 200/10 201/11 202/12 203/20 205/18 211/3 221/13 222/17 222/23 222/23 223/21 233/23 235/14 235/15 235/16 236/14 236/24 nowadays [3] 185/18 205/11 224/2 nowhere [2] 70/14 126/2 nuanced [1] 177/22 number [41] 8/12 9/12 13/11 13/16 16/15 16/18 19/19 22/23 27/11 27/13 28/13 28/16 36/15 39/21 40/22 45/5 54/8 61/12 63/4 64/17 69/17 79/19 81/2 89/20 102/9 102/12 106/17 108/4 111/5 115/5 122/17 122/21 129/5 140/6 141/3 141/15 143/2 147/22 161/8 188/17 229/18 Number 1 [1] 61/12 Number 2 [3] 13/11 13/16 188/17 Number 3 [1] 102/9 Number 4 [1] 102/12 Number 5 [1] 63/4 Number 6 [4] 9/12 79/19 106/17 140/6 Number 8 [2] 81/2 141/3 Number 9 [2] 64/17 141/15 Number 98 [1] 229/18 Number one [3] 39/21 40/22 54/8 numbers [2] 138/2 160/6 numerous [2] 23/1 39/24 nutrition [1] 20/17	objectable [1] 144/2 objections [1] 230/11 objective [31] 59/19 60/12 60/15 60/18 61/25 62/9 63/14 63/15 63/20 66/11 66/11 66/12 67/1 74/17 74/19 74/21 74/24 75/7 75/8 75/9 75/14 76/11 84/23 101/9 104/10 137/23 138/1 138/17 140/6 206/8 225/12 objectively [2] 53/18 63/22 observable [2] 5/11 10/25 observation [1] 208/21 observations [6] 10/16 56/3 108/5 109/2 110/15 204/23 observed [4] 86/6 86/14 99/3 133/7 obviously [9] 39/7 85/14 106/25 140/21 162/19 162/21 169/5 213/7 220/14 occasion [3] 53/1 59/15 92/8 occasionally [4] 38/5 46/6 88/6 217/16 occasions [1] 49/3 occur [22] 21/14 21/15 26/2 30/21 38/15 38/22 38/22 48/3 65/18 65/25 66/3 72/21 93/21 98/18 107/3 129/6 145/25 164/1 164/2 189/1 216/9 216/12 occurred [18] 10/6 30/11 34/12 39/23 41/2 45/21 53/6 134/16 139/3 139/6 139/10 139/20 158/12 163/9 212/11 212/13 213/5 220/5 occurrence [1] 177/3 occurs [1] 189/10 October [2] 22/23 210/3 of State [1] 232/7 off [26] 20/12 22/4 22/8 37/8 37/11 37/22 45/16 47/22 51/11 51/13 51/16 51/24 65/13 65/19 66/1 71/20 114/23 115/7 121/19 129/9 153/15 200/10 226/24 227/1 236/20 238/25 offend [1] 80/8 offer [16] 5/20 6/6 9/8 120/20 150/13 165/11 165/12 211/5 226/8 227/23 234/9 234/21 235/9 235/18 236/5 238/20 offer it [1] 235/18 offered [15] 26/18 28/14 144/19 170/9 231/17 231/19 232/1 233/12 233/15 233/20 234/10 234/12 234/17 236/22 237/8 offering [20] 8/22 139/14 150/15 232/12 233/8 233/9 233/10 233/13 234/4 234/5 234/7 234/8 234/16 234/21 234/24 235/15 235/16 235/16 235/17 238/10 office [9] 1/21 198/6 202/12 211/12 212/10 214/19 214/25 215/2 231/24 officers [2] 12/7 13/4 offices [2] 162/7 162/8 OFFICIAL [2] 2/12 239/23 often [6] 6/10 35/15 161/14 177/21 177/25 207/5

oh [12] 15/3 29/8 79/21
 97/11 104/12 123/24 124/2
 160/25 165/5 209/21 211/17
 232/23
 okay [105] 5/3 5/5 6/13 7/21
 11/11 17/20 27/23 29/2 39/9
 41/21 42/9 42/20 47/11 59/19
 65/22 68/6 70/1 70/1 73/16
 77/19 80/11 85/25 87/25 92/3
 94/1 94/13 96/5 96/7 97/7
 104/4 104/8 111/20 111/23
 113/1 116/5 116/17 117/11
 119/25 123/13 123/22 123/24
 127/18 128/23 130/23 133/16
 139/17 140/8 142/6 143/12
 150/8 150/9 150/14 150/24
 151/20 153/14 153/16 156/16
 159/4 160/9 160/19 160/24
 161/8 161/22 163/20 163/22
 163/25 166/10 167/7 169/16
 170/12 171/5 172/20 175/16
 177/20 178/20 178/22 180/7
 180/10 184/10 184/13 184/19
 186/15 186/21 187/1 188/5
 190/19 192/17 193/20 193/22
 193/25 195/15 203/9 212/5
 214/12 214/18 215/7 219/15
 220/8 228/3 228/5 228/19
 229/14 230/22 232/24 233/22
 old [3] 47/13 185/8 186/2
 older [2] 163/6 220/14
 Olsen [1] 1/15
 on [327]
 once [8] 37/8 37/9 37/9 52/1
 52/9 53/23 131/6 135/4
 one [165] 1/16 1/19 5/4 5/9
 6/11 10/1 13/9 14/21 15/3
 18/11 18/14 18/21 19/6 20/10
 20/13 20/21 21/8 26/14 29/16
 32/6 33/10 34/2 34/3 34/4
 36/1 36/8 36/17 39/21 40/20
 40/22 42/23 42/23 43/7 43/14
 43/15 45/10 45/11 48/25 51/3
 51/8 51/20 51/25 52/10 53/6
 54/8 54/23 55/24 57/3 61/4
 62/6 62/9 62/16 66/24 70/10
 73/7 73/17 74/15 76/18 84/20
 86/23 88/18 88/18 89/6 95/1
 98/25 99/7 99/11 99/24
 100/21 101/17 101/17 101/18
 102/1 102/6 103/7 104/3
 104/12 105/6 105/13 109/24
 110/8 110/13 111/22 112/1
 112/6 112/23 115/24 116/10
 117/21 121/8 122/12 126/17
 128/3 131/4 131/11 133/16
 133/18 134/7 135/15 135/21
 136/1 136/1 136/5 136/15
 136/17 137/5 137/7 137/19
 137/21 139/12 140/2 140/9
 141/4 141/19 142/3 142/15
 142/17 145/16 148/20 149/9
 151/3 151/3 151/7 151/8
 151/12 151/12 159/7 159/19
 165/24 167/19 168/11 169/11
 171/24 176/18 176/21 177/5
 177/20 178/5 178/9 183/2
 184/7 184/16 187/24 188/16
 195/4 195/8 196/16 198/5
 198/17 201/15 201/18 201/18

ones [7] 24/2 39/8 43/3 43/3
 86/12 159/6 159/7
 only [40] 4/23 5/21 7/12
 10/19 12/14 13/10 13/15 14/5
 20/13 26/15 30/22 33/2 46/5
 66/12 70/7 71/18 81/6 102/24
 120/15 142/20 150/4 153/18
 153/23 159/3 159/4 166/8
 173/25 174/1 179/22 180/13
 180/17 194/2 194/24 211/18
 211/19 219/24 232/7 232/8
 238/6 238/20
 onset [2] 40/11 42/18
 op [10] 171/12 171/14 171/19
 171/25 194/11 197/11 197/13
 207/6 210/21 217/1
 open [5] 21/10 27/5 39/16
 143/15 231/3
 opened [1] 119/6
 opens [1] 235/5
 operating [1] 37/3
 operation [3] 164/7 168/2
 180/15
 operations [1] 177/5
 operative [4] 185/11 189/24
 192/12 216/9
 operatively [1] 216/12
 opiates [1] 126/22
 opine [11] 6/4 7/9 8/19 11/20
 11/23 24/8 24/13 25/17 26/15
 120/16 195/7
 opines [1] 7/25
 opining [1] 26/8
 opinion [54] 5/1 5/24 6/6 6/7
 8/1 8/6 9/8 10/18 10/22
 10/23 21/2 67/4 67/6 67/9
 76/24 83/3 83/12 83/15 84/17
 86/23 87/7 89/17 89/23 89/24
 92/7 98/23 99/16 99/17
 102/22 103/2 103/2 103/4
 103/6 103/7 111/14 130/4
 130/6 130/12 130/13 143/18
 143/21 144/2 144/15 144/17
 144/19 159/10 167/12 180/11
 180/17 181/7 181/22 208/17
 212/12 213/6
 opinions [12] 10/16 24/24
 28/6 99/20 103/17 103/19
 111/17 116/23 130/8 130/9
 130/18 170/8
 opponent [1] 24/4
 opportunity [6] 137/6 165/11
 220/11 235/11 235/13 236/12
 opposed [1] 183/7
 opposing [1] 142/21
 opposite [6] 89/22 177/18
 177/25 231/18 232/14 233/11
 opposition [1] 117/12
 optional [2] 184/6 227/8
 or [317]
 oranges [1] 86/18
 order [18] 4/8 4/12 5/7 5/22
 6/9 8/21 14/25 51/2 68/11
 144/8 144/11 146/2 154/8
 164/1 164/1 187/9 216/16
 216/16
 ordered [1] 71/13
 ordinary [1] 114/21

organization [1] 82/1
 organs [1] 212/20
 orientation [1] 18/24
 origin [1] 102/23
 original [2] 119/3 219/17
 originally [2] 169/21 169/24
 originate [1] 107/10
 originating [1] 216/1
 other [126] 5/4 6/11 7/13
 7/13 8/10 9/24 9/25 13/10
 13/11 15/3 18/11 19/1 19/3
 19/9 19/10 20/3 20/6 21/1
 21/14 22/11 23/12 24/2 25/6
 32/5 33/2 33/4 36/14 37/5
 37/6 40/24 41/4 41/4 41/5
 42/14 42/23 45/14 48/23
 48/24 48/25 49/13 50/5 50/23
 54/15 56/5 57/4 57/4 57/22
 57/22 58/10 63/11 64/14
 66/24 69/17 69/18 69/20
 71/15 72/25 72/25 75/4 75/11
 75/14 80/14 81/6 86/7 86/24
 96/13 97/20 98/5 98/19 100/7
 100/9 100/18 101/23 103/7
 103/10 103/10 104/3 106/14
 108/13 111/17 113/4 115/14
 116/19 120/19 126/8 129/5
 130/11 134/23 135/3 135/18
 140/2 141/13 146/16 146/17
 152/9 154/5 162/19 169/17
 170/4 171/24 174/21 176/11
 177/9 187/16 188/21 195/5
 195/8 199/1 203/1 203/4
 207/14 208/7 208/11 209/2
 209/4 219/12 221/10 224/24
 226/6 228/14 231/13 232/8
 235/6 237/15 238/12 238/23
 others [3] 13/13 85/13 86/2
 otherwise [3] 11/25 99/4
 227/10
 ought [1] 77/7
 our [24] 4/23 5/23 5/23 6/8
 6/15 8/20 15/11 17/18 21/9
 47/4 47/19 48/15 87/7 90/15
 92/9 101/10 101/15 119/10
 150/4 150/13 220/23 228/1
 229/3 230/12
 out [147] 10/7 19/6 21/3
 35/16 35/24 36/24 38/14
 51/15 52/4 52/9 52/16 54/6
 54/11 55/3 56/9 57/3 60/16
 65/1 65/16 70/3 70/11 77/14
 82/21 84/15 84/18 84/19
 84/22 85/1 85/15 90/7 91/19
 92/1 92/5 92/17 92/24 92/25
 93/1 93/2 93/12 94/3 94/4
 94/14 94/22 94/23 94/24
 95/22 95/24 95/25 96/2 96/3
 96/4 97/12 99/18 99/23 100/9
 100/21 100/25 101/20 102/10
 103/16 104/6 105/5 107/4
 108/25 111/11 112/23 115/21
 119/9 120/8 122/1 122/25
 125/12 132/5 132/5 132/17
 132/17 132/19 134/25 135/10
 135/17 135/23 136/6 146/24
 148/24 151/10 162/24 163/2
 163/4 163/11 163/18 164/2
 164/6 167/7 171/20 173/21
 174/12 174/13 178/3 178/23
 178/24 179/3 179/8 179/11
 179/12 181/25 182/20 182/21

Case 4:07-cv-02719 Document 309 Filed on 06/27/11 in TXSD Page 266 of 282		
out... [40] 182/23 183/1 183/4 183/6 183/14 184/2 185/7 188/12 188/21 189/1 199/4 199/22 204/20 204/24 205/6 205/14 205/17 205/23 207/5 207/11 207/13 207/14 207/18 208/5 208/10 209/3 209/5 209/6 209/13 209/16 210/25 214/21 216/12 217/21 218/3 221/3 224/1 230/17 236/16 237/5	179/20 181/18 194/21 194/24 195/6 195/8 201/24 202/8 203/11 203/12 203/15 203/16 203/20 203/20 210/16 210/19 214/23 214/24 215/8 215/8 215/23 215/25 216/1 panel [1] 131/11 panties [1] 140/1 paper [4] 57/13 97/6 106/14 170/20 papers [1] 57/8 paragraph [5] 172/8 192/20 192/21 193/15 193/20 paraphrased [3] 117/24 117/25 133/14 parcel [1] 100/24 parents [1] 21/23 part [33] 17/12 18/18 29/19 29/19 30/24 42/3 42/17 44/16 45/24 59/4 71/18 81/24 100/17 100/19 100/24 101/10 101/15 113/24 115/17 121/9 146/16 146/19 146/20 156/4 172/9 189/6 190/5 217/18 220/20 220/23 225/8 230/21 236/3 particular [25] 4/18 5/21 19/24 22/17 25/18 25/23 25/24 26/2 30/1 44/20 46/18 48/16 48/20 55/8 85/7 86/4 97/2 122/8 132/22 140/14 140/16 152/3 195/7 198/3 232/12 particularly [4] 6/10 47/10 217/22 233/4 parties [2] 7/10 7/12 partner [1] 91/18 parts [9] 110/6 176/10 176/11 176/18 176/21 203/4 237/15 238/13 239/7 parts of [1] 238/13 party [1] 232/22 party [1] 51/15 pass [16] 14/11 36/24 38/25 43/21 54/19 54/22 92/17 94/24 96/2 96/4 118/4 144/22 149/3 170/11 186/20 218/7 passed [10] 52/4 77/14 90/7 91/19 92/1 93/1 93/2 94/14 100/9 101/20 passes [1] 92/25 passing [10] 54/21 65/1 84/16 92/5 92/24 94/4 94/23 95/22 95/24 102/10 past [5] 19/17 22/24 82/8 227/12 235/4 patent [1] 50/8 patently [1] 6/6 pathophysiology [1] 16/16 pathways [5] 21/19 22/2 22/3 22/10 38/21 patient [26] 22/16 58/1 63/24 64/8 91/17 91/19 112/15 156/21 171/16 171/22 181/14 185/9 186/6 202/24 202/25 203/10 206/4 209/25 210/2 217/5 217/10 217/17 222/2 222/4 222/8 222/22 patient's [1] 75/8 patients [20] 155/23 155/25 156/1 156/2 171/17 171/20 197/9 197/14 197/15 198/6	205/6 205/8 205/11 205/11 205/19 207/3 207/7 207/14 208/6 209/7 PC [1] 1/15 pectoral [2] 177/11 177/13 pectoralis [8] 172/17 175/3 175/5 175/7 175/7 175/10 178/14 187/4 peer [41] 14/11 55/17 55/18 55/20 55/25 56/3 56/9 56/16 56/22 57/3 57/8 57/11 57/14 57/21 57/24 58/8 58/10 66/5 66/8 88/4 88/14 105/25 106/1 107/11 107/14 107/19 107/22 108/4 108/13 109/15 109/18 112/9 112/15 113/4 113/7 114/2 114/13 118/23 118/24 131/23 132/16 peer-review [1] 57/3 peer-reviewed [8] 55/18 55/20 55/25 56/16 57/14 57/24 58/10 66/5 penalty [1] 234/14 Pennsylvania [1] 1/22 people [48] 6/10 19/22 20/11 21/2 21/6 21/11 25/16 35/14 36/3 36/5 36/19 37/19 38/13 42/12 48/25 48/25 48/25 51/9 51/14 52/12 54/9 55/1 55/6 57/4 64/14 67/3 72/17 72/22 85/15 92/17 92/18 94/22 94/24 96/2 96/3 99/2 105/9 106/2 106/15 108/25 109/2 110/21 128/17 132/6 136/12 140/16 141/8 164/18 per [2] 44/25 211/16 percent [12] 23/23 50/16 60/21 84/16 171/13 197/15 197/24 197/25 216/17 216/17 216/18 219/23 percentage [6] 50/18 50/18 171/11 179/7 179/7 216/15 perception [2] 77/8 79/9 perceptions [1] 77/5 perfect [10] 37/23 160/5 161/14 161/15 199/25 200/5 205/3 208/14 210/8 216/21 perfectly [4] 97/15 98/3 114/21 188/14 perform [4] 151/19 198/17 198/20 227/13 performed [9] 156/8 156/9 173/22 177/12 179/2 179/12 182/20 183/20 191/25 performing [1] 81/24 perhaps [8] 49/8 65/9 117/3 149/16 176/23 191/16 191/18 212/23 period [33] 36/24 38/2 38/19 40/19 54/3 54/4 54/4 57/18 57/18 57/19 63/5 65/7 65/15 79/22 89/16 90/3 90/3 90/8 90/12 94/16 94/18 95/21 106/5 106/22 107/3 137/12 141/11 191/14 202/25 210/10 216/13 219/1 221/16 periods [14] 38/1 38/3 38/7 39/22 42/4 42/4 55/2 55/22 55/23 55/24 89/7 89/10 92/6 93/8 perjury [1] 234/14 permanent [1] 191/13
out-of-court [1] 230/17 outcome [1] 200/1 outcomes [1] 216/22 outside [9] 7/16 14/12 20/22 109/19 118/2 118/11 150/9 187/3 202/6 over [35] 20/15 23/4 23/5 23/20 23/23 25/2 38/18 49/8 49/14 49/14 85/21 95/9 113/10 115/13 115/25 116/10 132/24 136/17 137/5 152/13 153/9 156/11 156/14 171/8 172/21 173/21 177/5 181/17 188/2 188/15 189/1 191/14 213/9 216/13 224/19 overall [6] 62/12 82/20 105/18 134/13 217/5 217/10 overdue [1] 8/9 overlap [1] 191/4 oversimplification [1] 190/11 overview [1] 84/11 own [7] 48/20 112/15 133/11 178/3 192/9 207/11 230/15		
P		
p.m [4] 150/22 150/22 227/17 227/17 packet [1] 160/8 page [39] 3/2 8/6 58/21 67/13 93/23 104/14 104/15 104/16 124/3 126/15 127/8 157/6 159/15 159/25 160/6 172/7 181/2 182/10 183/18 184/1 185/4 192/18 193/11 193/15 194/12 202/16 211/4 212/1 214/2 214/4 214/4 219/8 219/12 219/13 224/11 224/13 225/2 230/10 232/7 Page 19 [1] 181/2 Page 21 [1] 183/18 Page 22 [1] 184/1 Page 24 [1] 182/10 Page 26 [4] 214/4 219/8 219/13 224/13 Page 27 [1] 212/1 Page 28 [2] 214/2 214/4 Page 3 [2] 58/21 159/15 Page 35 [1] 185/4 Page 44 [1] 211/4 Page 71 [2] 172/7 192/18 Page 86 [3] 202/16 224/11 225/2 Page 87 [1] 194/12 Page 90 [1] 157/6 pages [1] 230/7 paid [4] 27/17 27/20 27/24 28/2 pain [30] 63/25 65/2 75/1 176/24 177/7 179/19 179/23		

Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 267 of 282		
permitted [2] 4/24 122/4	physiology [1] 165/5	point [2] 117/23 118/23 123/6
person [49] 20/21 22/13 22/17	pick [6] 13/15 35/1 40/25	125/25 129/1 130/9 134/9
25/24 35/5 35/9 35/11 36/1	87/12 87/15 135/1	134/12 137/24 141/9 148/10
37/9 37/10 37/14 38/1 38/5	picked [2] 29/24 51/19	181/22 195/18 195/21 200/4
49/1 49/22 51/21 52/2 53/24	pictorial [1] 165/5	201/21 203/22 203/24 205/23
54/3 57/16 60/4 65/16 70/24	pictures [6] 151/2 163/21	210/16 231/18 233/5 233/12
88/18 90/7 95/21 95/25 97/14	171/14 185/10 200/4 200/15	234/21 235/20 236/12 236/16
97/17 97/19 97/21 97/24	piece [1] 89/11	point is [1] 233/12
103/10 105/4 105/7 105/14	pieces [2] 38/7 97/6	pointed [1] 109/11
105/17 107/3 109/24 122/8	pierced [1] 174/9	pointing [1] 166/22
133/4 140/20 141/25 186/18	pig [2] 190/16 224/4	points [2] 99/23 114/9
191/10 196/9 196/9 198/11	pill [1] 20/3	poisoned [1] 148/24
198/24	pinpoint [1] 216/1	police [1] 12/7
person's [4] 36/13 40/19	place [9] 110/19 120/21 140/2	Policing [1] 113/16
51/23 115/24	183/20 188/24 190/23 191/16	poor [2] 163/5 208/9
personal [2] 60/5 63/24	194/4 223/13	popped [1] 82/21
personally [2] 129/12 208/20	placed [12] 158/14 172/22	porcine [1] 224/4
perspective [1] 24/13	172/23 178/13 182/3 182/14	Porter [1] 2/5
peruse [1] 110/16	186/18 193/7 193/11 193/16	portion [13] 8/1 30/15 91/14
Pete [2] 150/12 150/17	193/25 198/2	93/24 93/24 188/17 206/14
petite [2] 185/15 186/13	places [4] 31/18 139/24	225/12 229/18 230/3 230/12
Ph.D.s [1] 57/4	139/25 140/3	232/6 238/7
pharmaceutical [2] 20/2 46/7	placing [2] 187/6 187/24	portions [4] 230/11 231/8
pharmaceuticals [1] 25/5	plaintiff [4] 1/3 15/13	234/10 234/25
pharmacokinetics [1] 147/6	227/20 227/24	position [4] 56/1 76/14
pharmacological [7] 55/11	plaintiffs [4] 1/13 3/3 23/14	168/10 237/18
59/7 107/9 108/9 118/7 118/9	23/22	positions [1] 17/5
145/17	plaintiffs' [2] 142/15 229/25	positive [5] 43/10 128/16
pharmacologically [3] 56/14	plan [2] 210/2 227/10	134/6 134/9 181/8
86/23 146/12	plastic [15] 14/20 151/22	possibility [4] 11/24 19/1
pharmacologist [7] 9/18 13/2	155/8 155/15 155/17 155/21	98/24 125/15
17/6 25/1 108/13 110/23	169/22 185/11 185/25 191/22	possible [16] 35/16 40/9
113/24	192/8 202/24 208/4 217/14	48/14 52/18 57/24 68/1 74/13
pharmacologist/toxicologist [1]	223/7	79/3 91/18 125/16 131/18
13/2	play [8] 36/15 58/4 105/13	136/7 148/12 148/12 148/15
pharmacologists [4] 6/22	135/18 150/14 199/15 226/21	232/16
47/20 108/13 114/11	228/1	possible' [1] 148/6
pharmacology [31] 5/7 16/24	playing [4] 150/12 150/17	possibly [10] 51/11 64/24
17/3 17/10 18/1 18/2 18/2	227/22 228/2	81/8 141/13 141/22 146/18
18/6 18/8 25/10 25/21 28/7	please [46] 11/11 15/23 16/2	147/14 147/16 180/20 204/1
47/25 56/23 57/5 57/7 58/12	16/9 41/20 44/13 58/23 58/24	post [15] 67/10 171/12 171/14
75/5 84/5 103/13 107/7	59/23 66/19 67/15 67/16	171/19 171/25 172/5 194/11
107/13 107/20 108/5 109/1	67/17 85/24 91/1 91/15 93/15	197/13 200/21 207/6 210/21
110/14 113/20 114/13 118/8	93/24 102/2 104/13 104/14	216/9 216/12 217/1 219/6
118/17 145/22	104/18 117/9 123/12 150/21	post-event [1] 67/10
pharmacy [6] 16/13 16/17 17/1	154/11 154/20 155/5 155/11	post-implant [1] 200/21
20/13 20/14 23/18	181/9 192/18 196/14 196/19	post-op [9] 171/12 171/14
phase [2] 65/7 236/17	197/3 202/15 202/16 203/9	171/19 171/25 194/11 197/13
PhD [2] 5/6 17/1	204/12 206/14 206/21 209/23	207/6 210/21 217/1
phone [2] 213/19 213/24	212/17 216/6 225/3 227/19	post-operative [1] 216/9
phoning [1] 132/7	228/7	post-operatively [1] 216/12
photograph [5] 164/1 168/23	pleased [1] 199/25	post-surgery [1] 172/5
168/24 169/3 169/19	pleasure [1] 170/17	post-trauma [1] 219/6
photographs [13] 157/8 157/9	plenty [5] 72/6 72/7 72/11	postdoctoral [1] 17/7
157/23 158/24 159/1 159/4	84/12 96/2	postoperative [2] 191/19
159/11 162/15 171/12 200/13	pleura [17] 172/24 173/2	216/20
201/9 210/21 219/3	173/3 173/4 173/5 173/23	postsurgical [5] 158/24
photography [1] 162/22	174/12 174/21 175/20 175/22	158/25 159/2 159/11 170/6
photos [12] 157/12 159/2	175/24 176/1 176/3 176/9	potent [2] 19/9 96/20
166/15 171/19 171/22 171/25	176/18 176/22 215/19	potential [1] 132/18
200/17 200/20 200/21 200/25	pleurisy [1] 177/7	potentially [5] 5/17 74/7
201/2 201/10	pleuritic [1] 177/7	85/21 134/3 141/14
phrase [2] 199/21 221/4	PLLC [1] 1/21	pound [1] 186/1
physical [6] 52/5 120/10	plus [3] 17/4 43/18 210/7	Power [1] 123/6
161/25 162/22 189/16 198/15	pneumothorax [5] 158/12 163/9	PowerPoint [3] 123/3 123/8
physically [2] 189/19 221/1	163/10 163/15 172/15	133/15
physician [9] 70/25 70/25	pocket [4] 188/13 188/14	practical [2] 187/24 199/2
151/17 152/9 153/5 153/7	193/4 193/16	practice [11] 7/17 156/4
168/18 177/24 178/2	point [45] 6/13 8/15 24/19	171/7 184/24 192/5 200/6
physicians [2] 9/25 190/12	34/12 48/10 53/20 54/6 57/16	207/7 210/13 210/22 220/15
	72/23 73/12 82/1 84/10 84/13	220/22
	85/8 88/13 100/22 103/6	practicing [1] 192/8

P Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 268 of 282		
<p>practitioner [1] 192/6 pre [3] 159/2 185/11 197/11 pre-op [1] 197/11 pre-operative [1] 185/11 pre-trauma [1] 159/2 precipitating [1] 223/12 predicate [1] 106/21 predicated [3] 5/23 106/18 106/18 predict [4] 22/16 180/14 180/15 181/16 predictable [2] 50/22 217/1 predicted [2] 182/2 182/13 predominantly [2] 23/14 23/15 prefer [4] 79/8 103/23 115/13 134/22 preference [1] 73/24 preferred [1] 73/22 preferring [2] 115/24 116/10 preparation [2] 46/23 201/4 prepared [3] 59/9 121/21 212/23 prepares [1] 212/25 prescription [1] 19/9 presence [12] 10/15 11/20 63/16 63/17 96/12 97/20 112/10 118/2 118/11 122/8 139/23 140/13 present [25] 4/2 13/24 15/10 26/9 35/22 52/1 52/8 86/20 86/21 117/10 120/4 120/6 120/16 123/5 123/11 133/18 140/3 150/23 152/21 152/24 153/11 154/10 197/7 227/18 228/8 presentation [1] 123/3 presented [2] 123/4 214/20 preserved [1] 27/4 pressure [2] 60/18 93/21 pressures [1] 138/2 presumably [1] 186/11 pretty [19] 21/13 29/19 31/18 34/11 41/5 68/21 77/15 85/18 89/5 114/12 118/8 134/25 136/6 138/3 150/2 174/15 194/3 207/19 207/20 previous [3] 177/24 177/24 231/23 previously [2] 18/13 119/11 primarily [3] 17/23 25/9 187/19 principles [1] 107/9 print [2] 56/19 185/7 prior [16] 20/15 40/23 72/14 128/7 160/4 168/3 177/18 178/1 207/3 210/6 233/24 234/4 236/4 236/8 237/8 238/21 prison [1] 227/6 private [1] 171/7 probability [2] 144/20 170/9 probably [36] 22/6 22/24 23/22 34/19 35/20 35/21 50/9 50/16 51/19 59/3 71/22 73/14 82/18 84/2 94/11 97/9 156/2 156/10 160/6 165/17 165/24 169/14 171/10 171/13 174/6 174/14 179/6 179/23 180/5 190/11 190/22 197/15 198/23 199/12 216/22 226/22</p>	<p>probate [1] 23/2 problem [12] 15/25 70/13 151/3 163/14 167/16 169/22 206/19 207/24 208/23 213/2 223/7 230/17 problems [7] 18/15 83/6 135/22 168/6 217/12 218/2 218/4 procedure [6] 163/9 192/21 220/24 220/25 222/2 223/20 procedures [2] 223/5 223/9 proceed [1] 226/18 proceeded [1] 231/24 proceedings [3] 1/24 239/15 239/18 process [3] 218/21 221/17 221/21 produce [14] 17/24 18/4 18/6 49/25 50/10 55/22 72/20 86/6 86/13 86/14 86/15 88/4 133/5 146/14 produced [1] 1/24 produces [1] 86/16 producing [1] 85/21 product [1] 169/14 products [2] 51/20 168/7 products or [1] 51/20 profession [1] 56/23 professional [2] 122/13 222/11 professionals [2] 12/12 12/21 professor [4] 16/12 17/9 17/11 17/11 proffer [2] 150/5 229/25 proffered [1] 233/8 proffers [2] 230/25 233/19 program [8] 17/13 17/13 17/19 18/21 23/3 109/13 227/4 227/8 programs [6] 16/18 18/20 18/25 23/1 23/2 23/4 progressed [1] 184/17 progresses [2] 48/14 49/14 progression [2] 187/3 208/8 prohibit [1] 235/3 project [1] 47/2 promoted [1] 17/11 prone [2] 191/8 191/8 pronounced [1] 56/18 proof [1] 58/3 proper [1] 168/10 properly [2] 60/11 153/20 proportion [2] 163/2 198/14 proportions [1] 198/5 proposition [5] 55/20 57/21 87/9 88/23 106/2 propound [1] 118/10 prosecution [1] 14/13 protocol [1] 31/19 proud [1] 205/3 prove [4] 125/21 233/13 234/10 236/3 provide [4] 5/24 10/22 45/7 121/15 provided [6] 6/20 110/21 152/20 153/1 153/2 153/6 provides [1] 144/1 providing [2] 7/23 84/5 provoking [1] 220/18 psychological [3] 46/8 220/9 220/12 psychologically [2] 189/18</p>	<p>psychotropic [1] 17/15 public [1] 170/25 publication [1] 56/18 publications [1] 56/19 publish [1] 165/19 published [4] 56/16 105/25 113/15 118/23 pudding [1] 132/13 pull [8] 53/12 100/21 110/11 123/23 126/12 190/24 192/12 192/18 pulled [1] 190/20 pulling [3] 110/25 111/5 191/17 punch [1] 102/21 puncture [1] 173/8 purely [2] 63/6 63/25 purports [1] 67/20 purpose [7] 20/1 20/9 82/19 232/12 235/5 238/9 239/4 purposes [2] 43/15 79/16 put [66] 10/7 21/7 54/11 56/9 56/9 59/9 59/12 60/15 66/19 75/4 75/15 76/25 77/7 77/17 79/7 79/8 79/9 79/10 80/7 80/9 80/10 80/23 80/24 80/24 81/1 91/1 104/11 108/25 110/24 113/25 117/14 121/22 121/23 125/2 126/8 128/25 131/4 132/5 132/17 132/19 140/25 143/17 157/8 159/15 166/17 168/8 168/23 172/7 173/15 185/4 185/10 186/9 187/19 187/22 188/3 193/10 194/6 198/23 199/8 199/18 211/7 219/8 229/3 235/1 237/2 237/5 puts [2] 21/24 163/1 putting [5] 100/20 109/4 149/14 187/15 217/23</p>
Q		
<p>qualified [15] 9/14 12/23 13/1 13/4 24/20 24/21 24/23 25/17 26/12 26/15 26/19 27/2 56/21 120/15 139/9 qualify [1] 45/11 Qualifying [1] 145/2 quality [2] 199/5 222/22 quantification [1] 62/15 quantifying [1] 62/13 quantitate [1] 52/21 quantitating [1] 62/10 quantitative [1] 142/1 quantitatively [1] 25/14 question [67] 21/20 25/25 31/23 32/3 32/4 32/7 32/25 36/8 51/1 51/5 58/7 59/16 68/3 68/13 68/21 68/24 69/1 69/2 73/15 74/2 79/4 80/7 85/1 85/23 86/4 86/14 87/25 88/10 92/8 96/15 97/11 97/12 97/24 102/2 105/23 106/9 106/16 109/6 109/12 109/23 111/25 113/2 116/1 116/10 116/11 116/14 116/15 117/20 118/10 118/20 119/10 128/11 129/8 129/17 132/25 134/15 141/10 145/9 147/23 148/20 181/3 182/11 182/13 183/2 183/18 194/1 204/22</p>		

Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 269 of 282		
questioned [1] 231/7	rather [4] 104/6 102/13 133/10 205/13	rather [4] 104/6 102/13 133/10 205/13
questioning [1] 180/9	rational [1] 146/12	recommend [1] 185/23
questions [34] 43/23 68/8 87/1 97/4 97/5 102/20 105/16 111/21 115/20 118/1 118/9 118/13 121/21 121/22 123/21 137/22 145/15 152/14 177/23 178/4 180/7 182/19 216/6 219/16 221/2 221/24 222/25 223/4 224/15 225/8 226/7 226/13 231/12 231/25	raves [1] 36/19	recommendation [2] 157/22 157/25
quick [4] 40/12 134/25 147/19 224/9	ray [1] 60/18	recommendations [5] 185/24 186/1 186/4 186/5 221/25
quickly [5] 21/13 43/17 136/4 136/6 221/21	reach [3] 48/10 208/17 208/22	recommended [2] 157/24 223/20
QuikTrip [2] 54/20 54/22	react [5] 22/17 36/5 48/25 49/1 49/1	reconstruction [1] 210/1
quite [9] 24/4 112/25 177/18 179/4 191/2 220/21 228/16 231/18 232/14	reaction [3] 36/2 49/10 50/11	reconstructions [1] 220/22
quits [1] 228/5	reacts [1] 37/11	reconstructive [2] 155/8 155/21
quote [2] 62/21 62/22	read [35] 5/15 11/17 57/5 57/5 68/21 68/23 85/23 116/6 117/18 117/23 117/24 119/23 133/14 158/24 162/13 181/2 181/3 181/9 182/10 182/11 183/25 193/23 194/19 195/11 202/23 204/2 204/12 206/14 211/15 225/24 225/25 230/3 230/18 235/19 235/19	record [27] 27/4 68/17 69/9 69/25 69/25 71/16 71/18 90/18 90/21 90/23 91/21 93/4 93/23 104/24 105/1 118/3 118/12 119/1 121/19 151/17 151/18 153/15 167/9 200/5 204/10 233/14 239/18
quotes [2] 62/23 64/24	readily [1] 41/5	recorded [2] 1/24 204/23
R	reading [10] 136/20 154/2 184/14 194/19 196/14 202/18 204/8 206/21 209/23 230/5	recording [1] 32/8
R-2 [2] 64/3 80/19	ready [4] 15/4 45/20 104/3 149/19	records [27] 6/4 9/22 9/23 9/24 27/13 28/10 32/17 39/10 39/24 69/6 70/16 70/18 71/8 84/12 89/16 90/17 90/20 133/23 133/25 134/17 151/5 164/8 164/12 167/9 200/11 209/8 222/9
Raise [1] 91/11	real [3] 57/1 72/24 147/19	recover [3] 210/24 210/25 213/11
raised [2] 177/21 201/13	realize [4] 12/11 13/12 103/24 190/11	recovered [6] 54/3 54/5 57/20 158/17 158/21 158/22
Randall [3] 15/14 16/4 16/10	really [18] 26/18 34/11 43/15 54/21 86/18 111/6 112/24 118/6 121/23 138/23 159/3 164/19 187/15 189/15 191/3 194/5 197/9 233/3	recovering [1] 57/19
randomized [1] 88/25	reason [12] 32/23 33/3 52/5 52/6 52/7 102/4 182/1 188/16 199/17 227/13 233/20 237/23	recovery [3] 210/4 210/9 210/10
range [11] 50/1 71/25 88/22 88/23 97/24 98/2 169/14 196/2 196/3 216/21 216/23	reasonable [5] 13/17 99/5 144/19 170/9 199/3	recreate [1] 168/2
ranges [1] 98/2	reasonably [2] 71/11 217/25	RECROSS [1] 144/23
rape [102] 6/24 6/24 8/24 9/3 10/6 11/21 12/15 12/22 18/10 18/16 19/2 19/3 19/5 19/17 20/22 21/3 21/6 23/11 25/3 25/20 28/8 34/12 36/17 39/11 39/20 40/18 41/5 41/10 42/22 43/9 43/16 47/11 47/12 47/16 47/18 50/5 51/20 53/2 54/12 55/7 55/13 55/21 56/6 57/17 59/3 59/15 61/1 61/6 65/8 83/4 83/10 83/16 85/11 85/12 86/1 86/5 86/7 87/15 92/7 96/9 96/9 96/24 97/14 97/25 98/23 99/15 102/22 103/8 105/5 105/15 106/2 106/8 107/17 108/2 108/7 108/18 112/10 122/19 124/12 128/4 128/9 131/17 131/20 134/20 136/3 136/7 140/8 140/11 140/14 140/17 140/20 140/21 142/8 143/19 143/22 144/16 146/11 147/8 147/9 148/25 212/11 212/13	rebut [2] 234/18 237/8	RECROSS-EXAMINATION [1] 144/23
rape drug [1] 6/24	recall [20] 27/10 34/6 55/23 91/25 94/21 139/25 160/14 161/19 171/24 189/25 200/10 207/17 211/22 212/6 222/14 222/18 223/3 224/15 225/10 229/23	recur [3] 168/6 217/21 218/4
rape-facilitation [9] 28/8 36/17 39/20 40/18 142/8 143/19 143/22 144/16 148/25	recalls [6] 62/21 64/24 77/12 77/21 77/23 78/3	red [1] 174/10
raped [12] 9/1 9/8 30/8 63/10 69/22 80/14 106/20 208/19 211/18 211/20 213/20 213/24	recasts [1] 120/9	redacted [1] 239/7
rapidly [4] 63/5 79/22 137/14 191/11	received [8] 16/22 16/23 16/24 17/1 27/14 31/3 42/25 83/9	redirect [5] 130/23 131/1 148/21 218/11 218/12
rare [5] 177/2 177/3 183/13 207/13 208/5	receiving [1] 39/25	redness [3] 138/19 201/23 202/3
Rarely [1] 197/23	recent [2] 234/20 234/23	reduce [1] 89/24
rate [4] 31/12 44/22 60/17 86/16	recently [1] 168/19	refer [5] 19/7 47/20 177/23 205/13 205/16
	receptor [11] 55/6 55/7 55/12 95/14 146/7 146/7 146/9 146/11 146/13 146/19 147/4	reference [1] 12/20
	receptors [2] 145/24 146/20	referenced [1] 230/1
	Recess [4] 15/9 123/10 150/22 227/17	references [3] 107/18 113/20 113/21
	recessed [1] 239/15	referred [4] 23/19 105/22 118/15 146/21
	rechallenge [1] 89/2	referring [6] 65/6 147/22 148/8 161/10 173/17 188/12
	recipes [1] 41/6	refers [1] 64/4
	recog [1] 118/22	reflect [2] 213/19 213/23
	recognition [1] 86/8	reflected [1] 214/25
	recognize [3] 58/18 110/22 157/9	refresh [1] 214/13
	recognized [12] 87/23 105/12 105/19 106/15 107/16 109/16	regard [9] 18/23 25/9 25/16 29/12 40/5 55/12 65/5 84/5 132/16
		regarding [5] 4/6 5/25 10/23 76/11 82/4
		regular [1] 29/24
		regulatory [1] 17/12
		reiterate [3] 8/8 11/6 100/2
		reject [2] 130/4 130/12
		relate [2] 104/24 133/12
		related [13] 19/8 25/19 25/19 37/5 48/11 89/18 89/25 96/11

related... [5] 98/19 152/15
194/8 195/5 220/4
relates [2] 25/23 28/7
relating [2] 111/2 211/24
relationship [6] 47/23 47/24
49/6 87/20 88/9 146/22
relatively [5] 34/23 50/6
50/7 73/8 226/21
released [1] 20/17
relevant [3] 7/24 10/22 216/6
reliability [2] 7/25 14/11
reliable [2] 57/6 108/16
reliably [1] 112/11
relied [2] 10/8 33/7
relies [2] 116/7 125/22
rely [8] 33/10 125/17 138/4
158/24 208/24 221/14 222/6
222/11
relying [4] 9/21 33/18 224/6
224/7
remain [5] 52/16 52/20 73/11
101/8 191/1
remained [1] 55/3
remaining [1] 47/23
remains [1] 50/1
remember [60] 37/4 37/20 38/1
38/6 39/22 40/2 45/19 53/3
54/10 54/21 62/3 62/18 64/22
65/9 77/23 79/1 80/1 82/15
85/16 90/10 91/19 92/21 93/1
95/23 97/11 97/12 102/15
102/25 111/8 114/23 114/25
115/3 115/7 115/10 115/12
128/1 128/3 128/5 130/20
132/14 136/20 137/1 137/9
137/17 137/25 140/1 140/2
161/20 174/6 178/7 180/24
200/13 201/11 203/8 204/25
211/24 213/10 214/9 214/17
221/8
remembering [2] 76/23 78/7
remembers [5] 64/22 75/23
81/13 91/23 130/3
remind [1] 178/5
removal [1] 209/25
remove [1] 89/1
removed [4] 193/11 193/14
193/20 197/22
removing [1] 50/23
render [1] 24/24
rendered [2] 43/19 97/19
repaired [12] 168/11 169/9
169/22 180/19 191/9 210/25
217/22 219/16 219/18 222/25
223/2 223/12
repaired [3] 158/16 158/17
169/7
repairing [4] 189/24 193/3
193/4 217/20
repairs [1] 169/12
repeat [5] 89/4 100/2 102/2
145/9 218/2
repeatedly [1] 118/15
rephrase [1] 204/22
replacement [1] 209/25
report [92] 5/16 11/19 14/16
26/19 26/23 28/17 30/12
32/12 32/13 33/21 34/10 47/3
58/18 58/20 58/21 59/9 59/12
61/2 61/10 62/19 63/6 64/7

70/11 70/18 70/19 70/21
71/13 71/23 73/19 76/20 78/9
79/5 79/24 79/25 80/3 80/4
81/7 81/9 82/3 83/20 83/23
83/25 84/10 85/3 85/4 88/18
95/19 102/12 106/4 107/24
115/1 120/2 120/3 120/8
120/25 121/4 121/5 121/7
121/10 122/1 122/2 125/19
127/23 134/22 136/20 138/10
138/14 139/12 139/15 139/16
147/21 151/15 179/22 211/17
211/19 229/18 230/13 231/14
232/7 232/7 236/23 238/22
239/4
reported [11] 21/6 25/18
29/17 38/4 60/5 108/15
112/11 112/12 125/7 125/10
204/6
reporter [3] 2/12 176/15
239/23
Reporter's [1] 239/17
reporting [11] 59/18 60/4
63/12 101/4 101/16 101/25
102/5 102/6 112/15 125/3
225/9
reports [43] 5/13 5/19 11/1
11/14 23/7 26/16 27/15 61/7
62/5 63/2 63/4 64/10 64/17
73/18 76/8 76/15 76/17 76/22
79/21 80/1 81/2 81/5 81/11
81/17 81/22 81/23 88/21
88/24 91/17 94/3 96/23
101/24 109/3 110/15 115/19
116/8 116/11 120/19 125/18
125/23 133/17 141/15 158/23
reposition [1] 168/3
represent [7] 44/3 123/18
142/7 152/1 152/20 165/15
186/24
representation [2] 121/14
143/18
represented [1] 67/10
representing [1] 170/16
request [6] 24/17 27/7 29/22
41/1 212/8 213/12
requested [6] 29/25 30/25
71/5 211/22 213/8 213/23
require [1] 210/4
required [2] 158/9 168/1
requirement [1] 109/12
reservoir [1] 135/9
residency [2] 191/22 192/4
residual [6] 53/15 135/8
203/12 203/16 203/20 214/24
resist [3] 43/19 52/6 52/7
respect [15] 26/8 26/23 28/7
68/20 78/14 105/23 107/21
109/9 109/22 112/22 131/23
134/6 142/7 143/18 153/17
respectable [1] 56/23
respond [1] 50/17
responded [1] 222/17
responders [2] 50/18 50/19
response [30] 47/20 47/21
47/22 47/24 48/1 48/3 48/11
49/6 49/7 49/14 49/16 49/20
50/6 50/7 50/8 51/3 96/12
97/3 97/4 109/17 119/25
145/14 147/23 174/23 193/9

responses [3] 50/1 50/2
 230/23
 responsibilities [2] 18/11
 18/14
 responsibility [1] 18/18
 responsible [1] 130/15
 responsive [4] 68/24 109/10
 129/11 129/13
 rest [5] 13/16 111/15 149/17
 150/3 230/19
 result [15] 128/10 177/10
 179/13 179/16 181/8 182/22
 199/22 200/3 205/4 208/23
 213/20 216/20 217/1 217/17
 219/6
 resulting [1] 212/11
 results [24] 28/11 32/5 33/4
 33/13 33/23 33/24 33/24 34/1
 47/1 47/3 124/17 124/21
 124/23 125/3 125/7 125/21
 158/7 160/3 161/15 216/21
 217/4 217/8 217/12 219/21
 retained [1] 6/10
 retracted [1] 57/9
 retractors [4] 158/14 172/22
 172/23 173/15
 retrograde [1] 37/19
 returned [6] 17/8 161/22
 161/24 162/16 218/18 218/25
 returning [2] 202/13 215/5
 reurge [1] 26/10
 review [25] 6/3 9/17 9/19
 14/12 28/6 31/7 39/18 44/23
 56/22 57/3 57/8 57/11 58/8
 58/23 88/18 108/13 112/15
 113/4 113/7 114/2 116/22
 139/5 139/19 139/22 165/11
 reviewed [48] 27/7 27/10 28/5
 28/10 28/25 55/17 55/18
 55/20 55/25 56/3 56/9 56/16
 56/18 56/20 57/13 57/14
 57/21 57/24 58/10 66/5 66/8
 88/4 88/14 89/9 90/17 105/25
 106/1 107/11 107/14 107/19
 107/22 108/4 109/15 109/18
 112/9 116/20 118/23 118/24
 121/12 132/16 133/24 164/8
 164/12 164/13 164/17 164/22
 201/3 201/8
 reviewing [3] 27/17 82/20
 139/1
 reviews [2] 88/17 131/23
 revision [1] 199/13
 revisit [1] 187/2
 rib [3] 158/13 172/21 190/21
 ribs [11] 158/15 173/10
 175/12 175/13 175/14 175/18
 178/14 187/5 190/6 190/13
 191/1
 rich [4] 176/22 176/25 223/16
 223/18
 Richmond [2] 1/17 1/20
 right [156] 4/4 7/18 12/1
 13/24 15/1 24/21 24/22 39/2
 41/20 42/1 42/9 43/22 45/24
 46/11 46/23 47/4 47/9 47/18
 50/25 51/19 51/25 53/3 53/5
 53/23 54/2 55/14 58/20 59/1
 59/18 60/9 61/5 62/14 63/16
 64/21 67/6 67/12 67/16 67/17

R Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 271 of 282		
<p>right... [118] 67/17 70/24 71/5 71/11 71/20 71/22 71/23 73/3 73/13 75/18 76/6 77/4 77/6 77/20 78/21 80/3 83/20 84/3 85/3 88/13 90/10 90/14 90/17 90/22 90/24 90/25 91/11 93/11 93/14 93/20 93/25 94/3 94/9 94/16 98/20 101/13 101/14 104/18 104/20 104/24 106/10 107/10 110/25 111/23 115/7 116/5 117/11 126/17 127/15 127/22 131/21 136/10 148/10 148/15 148/18 149/9 151/9 152/18 154/13 160/22 162/24 166/5 166/7 166/9 166/25 169/6 175/12 175/19 176/5 178/19 181/4 183/2 188/4 188/6 192/14 193/5 193/7 193/8 193/14 193/17 193/21 194/2 194/23 195/11 196/5 196/15 196/20 196/21 197/3 199/10 201/11 203/7 203/14 203/22 204/12 206/15 206/18 209/10 212/6 212/15 213/5 213/12 213/14 213/15 213/21 214/22 215/19 215/22 219/5 219/24 220/1 220/6 221/13 223/6 225/23 228/9 236/6 238/4 right-hand [3] 13/24 151/9 166/25 rigid [1] 108/24 rigor [1] 79/14 rigorous [1] 109/8 rippling [1] 218/3 rise [4] 104/4 117/9 150/21 228/7 rising [1] 187/16 risk [2] 176/23 187/21 risks [1] 210/2 Riverway [3] 1/16 1/19 2/10 roaches [2] 64/2 80/18 road [2] 163/6 164/5 Rohypnol [74] 11/22 12/17 13/18 19/6 19/6 19/25 20/2 20/5 29/24 30/1 30/2 30/24 33/2 33/19 34/7 34/17 34/18 34/24 35/17 36/19 41/1 48/18 49/6 50/5 53/23 56/6 64/4 68/16 71/24 72/10 72/11 72/15 72/16 72/19 73/8 73/20 73/21 73/23 74/4 74/5 74/11 74/18 74/22 75/10 83/20 85/8 85/9 85/14 85/19 86/8 86/16 87/4 87/9 87/13 87/18 96/16 96/19 105/1 106/13 113/19 126/2 126/3 126/11 127/19 128/22 129/4 129/18 131/16 132/3 132/20 132/20 146/8 146/25 147/2 Ron [1] 1/18 root [3] 1/6 1/7 169/21 roughly [3] 40/13 156/3 162/9 round [1] 57/3 rounded [1] 116/12 route [1] 25/12 routinely [2] 6/21 30/23 rubber [1] 174/10 ruffies [3] 40/22 64/2 80/18 rule [4] 8/21 235/3 238/2</p>	<p>ruled [6] 4/15 26/17 116/4 122/4 143/3 143/7 ruling [6] 4/23 6/16 8/20 11/18 27/3 119/3 rulings [2] 10/14 26/8 run [6] 124/24 125/1 125/1 125/4 126/10 176/23 running [1] 174/7 Rusk [1] 2/14 Ryan [1] 115/11</p> <p>S</p> <p>S-Y-N-C-O-P-E [1] 93/9 Sabrina [2] 155/1 155/6 sad [3] 98/16 141/24 141/25 Safe [1] 149/7 safely [1] 71/11 said [86] 4/15 5/4 7/22 14/6 26/15 28/10 29/2 32/21 40/9 41/22 41/25 42/2 53/3 55/14 65/18 65/21 68/11 68/15 69/23 77/22 78/5 78/23 80/16 81/7 84/12 89/14 92/4 99/23 103/15 112/13 112/14 112/23 113/14 116/7 122/9 122/17 125/21 128/17 129/19 132/18 134/2 134/5 134/22 135/15 137/15 137/20 139/11 139/15 140/20 140/25 141/1 141/9 141/13 142/4 146/15 146/18 146/19 146/19 147/14 148/14 152/2 157/13 166/24 167/2 171/1 171/6 177/18 177/19 178/2 178/3 181/12 182/17 184/19 184/23 203/17 204/3 218/17 218/20 221/5 221/14 229/19 230/6 230/24 233/17 236/3 238/9 same [37] 33/16 36/3 36/23 37/14 42/11 42/13 49/1 49/2 49/2 50/17 54/11 55/7 57/4 86/16 86/16 112/18 117/16 123/3 137/15 143/3 143/10 145/20 146/7 146/13 146/15 146/25 152/15 178/7 207/25 225/2 231/13 232/8 233/20 235/23 236/25 237/7 238/4 sample [4] 69/22 72/7 72/14 127/24 samples [1] 139/23 San [1] 155/14 save [1] 152/12 savvy [1] 205/11 saw [24] 41/23 67/24 71/9 89/8 145/5 145/12 157/22 161/18 162/22 167/8 172/3 172/6 173/14 183/5 183/24 184/15 204/10 205/1 205/2 208/18 214/24 218/17 218/24 219/22 say [130] 8/10 8/25 9/7 9/25 12/1 12/16 12/18 13/14 13/18 13/21 22/22 23/9 24/7 30/12 31/3 32/11 32/14 32/14 32/18 33/2 33/18 33/19 36/18 43/13 45/8 48/7 48/9 48/17 51/8 54/17 55/10 56/8 56/13 57/5 57/23 58/13 60/9 62/16 62/16 65/20 68/9 68/17 70/5 73/2 74/17 75/2 77/14 77/15 77/24 78/1 81/23 86/8 86/17 86/21</p>	<p>86/23 87/23 88/8 88/12 92/8 94/13 94/18 95/8 95/20 96/19 96/20 100/21 100/25 108/20 109/3 120/17 121/8 121/11 125/5 128/17 128/18 133/3 135/2 137/8 138/23 144/4 151/16 151/18 151/24 155/25 156/2 156/9 158/4 159/10 164/5 164/21 169/24 170/2 176/9 177/10 180/19 181/12 182/5 184/2 190/19 191/12 193/20 195/3 196/13 197/15 198/18 198/19 202/2 203/15 206/18 207/16 208/20 211/19 213/7 213/13 213/22 214/4 215/10 216/16 216/18 217/7 218/20 221/15 221/20 222/1 225/23 233/4 233/23 234/22 234/24 237/11 saying [31] 9/5 13/10 33/21 48/17 49/14 65/24 69/5 70/9 75/7 79/1 95/9 95/24 107/10 113/3 113/13 130/13 135/23 135/24 139/15 146/24 151/14 173/1 173/2 178/8 183/8 210/7 210/8 235/7 235/8 238/4 238/5 says [55] 9/1 10/8 30/14 32/13 54/19 63/24 64/19 64/19 70/16 73/19 75/1 77/16 80/5 91/17 104/23 106/14 110/22 112/9 114/12 120/17 120/18 124/8 125/7 125/7 125/9 126/10 128/14 129/2 129/3 131/11 152/15 152/16 162/14 167/1 172/14 172/17 173/12 184/10 184/14 185/8 194/21 200/15 202/24 203/23 204/13 206/15 206/22 209/25 211/16 214/1 216/8 224/17 224/22 233/1 233/15 scales [1] 60/16 scanning [3] 52/12 53/12 53/21 scar [2] 200/7 210/23 Scarano [3] 6/16 228/10 229/2 scars [1] 171/21 scenario [2] 57/23 197/19 schedule [3] 91/4 211/17 228/13 scheduling [1] 149/23 Schmidt [4] 115/1 227/20 227/22 228/2 School [1] 155/13 schools [1] 18/24 Schulz [9] 33/8 70/21 71/5 71/13 72/8 124/10 134/1 145/5 145/12 Schulz' [3] 71/8 138/10 139/2 science [5] 17/21 30/3 108/3 113/8 113/9 scientific [21] 57/6 58/3 74/22 74/25 75/6 75/7 75/14 88/20 93/19 105/24 107/15 107/16 108/24 109/4 110/10 111/1 111/3 112/16 113/6 118/17 144/19 scientifically [8] 53/19 107/25 107/25 108/16 109/8 109/16 112/10 112/16 scientist [2] 8/9 67/1 scientist's [1] 137/25</p>

scopolamine [1] 19/18
 Scott [4] 90/17 90/21 91/22 91/24
 Scott's [1] 139/12
 screen [33] 29/12 29/18 29/20 29/25 30/1 30/20 30/21 30/24 31/1 31/24 32/10 32/11 32/21 33/1 33/7 33/13 67/11 68/16 68/18 71/6 71/6 72/6 124/2 124/21 126/1 126/7 126/11 128/11 128/14 131/9 131/12 134/15 134/16
 screen -- you [1] 134/16
 screened [2] 32/18 33/2
 screening [2] 33/4 73/22
 screens [7] 29/13 29/14 29/20 31/17 31/18 35/15 131/9
 scribbling [2] 41/12 41/19
 sealed [1] 27/13
 seat [7] 15/17 15/18 154/13 154/14 209/18 209/19 209/19
 seated [4] 15/23 123/12 154/11 227/19
 second [23] 5/2 5/9 6/1 9/10 11/9 15/8 29/22 61/23 66/22 67/12 90/24 93/14 101/9 117/15 117/19 126/15 126/16 144/12 151/3 192/20 192/21 193/15 231/1
 secondary [3] 51/10 206/24 207/2
 secondly [1] 136/6
 section [2] 18/19 204/10
 Sections [1] 225/4
 sedated [2] 21/12 51/12
 sedates [1] 22/3
 sedation [6] 21/15 22/12 48/9 49/8 51/2 51/5
 sedative [7] 21/24 22/3 51/7 55/11 56/11 106/11 136/13
 sedatives [1] 19/23
 see [115] 11/13 19/18 19/20 20/25 21/5 21/15 21/16 22/11 30/14 30/22 31/5 35/22 36/16 36/19 36/21 36/22 36/23 37/4 37/5 37/6 37/12 37/14 37/25 38/18 38/19 38/20 40/11 40/11 40/12 40/16 43/8 49/15 51/8 51/9 51/14 51/18 52/12 55/8 67/4 67/21 67/24 70/16 70/21 78/18 78/20 78/21 78/23 81/6 82/21 84/20 86/12 89/13 90/3 90/23 91/21 92/11 92/16 94/3 95/1 95/2 95/11 96/6 98/19 99/10 104/7 115/1 121/1 123/6 126/2 138/17 142/16 142/18 152/8 156/1 156/2 156/24 157/20 161/16 162/11 166/15 166/21 167/5 169/4 170/3 171/20 172/5 172/12 173/9 173/10 173/11 173/13 173/14 173/19 180/4 180/5 181/3 194/5 194/13 198/6 201/16 201/18 202/13 203/25 204/17 207/5 207/7 208/5 208/6 208/13 215/2 220/14 220/17 222/24 232/23 232/23
 seeing [8] 36/6 64/24 139/25 162/18 166/13 180/4 207/1

seek [2] 229/17 236/5
 seem [3] 10/19 37/3 51/15
 seemed [3] 40/1 40/5 141/9
 seems [2] 40/12 236/25
 seen [32] 19/22 23/23 36/10 37/1 60/23 69/20 70/14 71/8 73/4 78/4 82/8 86/9 89/15 106/10 109/2 110/15 124/5 124/6 133/22 153/20 168/19 186/4 186/5 207/13 207/14 207/17 208/10 208/12 209/2 209/6 209/12 212/10
 self [4] 60/5 112/11 112/12 118/16
 self-bolstering [1] 118/16
 self-reported [3] 60/5 112/11 112/12
 sells [1] 20/13
 semantics [1] 215/12
 semen [3] 63/17 139/24 140/3
 send [4] 70/3 104/6 143/8 213/9
 senior [1] 114/10
 sensitive [5] 50/20 97/1 128/13 179/19 179/20
 sent [1] 70/11
 sentence [4] 192/21 203/17 216/4 216/8
 separate [4] 99/3 126/11 189/2 189/6
 September [2] 93/7 156/23
 sequence [2] 64/23 81/13
 series [1] 88/16
 serious [1] 176/23
 served [1] 17/9
 services [2] 1/7 44/18
 sets [1] 159/3
 settle [1] 24/1
 settled [1] 88/20
 seven [5] 84/15 84/18 84/22 84/22 99/23
 several [21] 23/25 37/15 38/3 38/23 39/21 41/4 43/12 45/13 91/19 105/14 106/3 107/4 107/18 113/21 180/20 188/11 188/21 197/12 230/13 230/23 231/25
 severe [17] 163/18 167/7 167/10 167/12 176/23 201/14 201/15 201/19 203/1 203/11 204/13 204/19 206/15 206/19 225/16 226/1 226/3
 severely [5] 179/21 203/10 203/18 203/19 207/21
 sew [2] 188/24 191/4
 sex [7] 6/6 21/4 63/21 64/25 91/25 132/6 139/14
 sexual [50] 5/10 5/14 6/2 7/23 8/2 9/12 9/13 10/24 11/3 11/15 11/24 12/4 12/7 29/14 29/21 36/7 39/8 39/23 39/23 40/16 41/11 42/15 43/20 47/15 61/8 63/12 63/16 63/18 76/9 80/15 89/12 91/18 101/5 110/21 113/17 114/5 120/14 120/18 120/18 120/20 122/12 133/7 133/9 137/20 138/9 138/17 139/3 139/6 139/10 139/19
 sexual/vaginal [1] 120/18
 sexually [3] 21/17 98/14

shall [1] 204/22
 shame [1] 105/15
 shape [1] 197/4
 shaped [1] 186/8
 shapes [1] 186/10
 Sharon [3] 2/9 94/6 186/24
 sharp [1] 75/1
 she [262]
 she'll [2] 149/14 152/6
 she's [8] 35/8 77/13 80/14 89/7 89/9 90/4 128/13 186/7
 sheets [1] 140/1
 shifted [2] 96/12 166/16
 shifts [3] 166/19 166/20 166/21
 shiny [1] 190/14
 shocked [4] 204/25 205/5 205/23 218/17
 shocking [1] 206/2
 shoe [1] 60/17
 short [11] 34/18 34/23 61/13 90/12 103/21 103/25 145/3 185/1 196/21 202/25 226/22
 short-acting [1] 34/18
 shortened [1] 223/25
 shortens [1] 102/20
 shorter [1] 35/19
 shortest [1] 207/10
 shorthand [1] 42/6
 shortness [1] 194/22
 should [18] 6/12 9/1 23/6 61/4 153/2 153/5 166/3 167/5 186/6 193/23 198/2 198/8 219/3 220/24 230/13 235/23 236/18 237/23
 shoulders [2] 186/12 198/6
 show [30] 5/3 21/25 62/17 74/20 74/22 75/10 90/23 105/17 142/11 142/19 142/21 143/11 143/13 157/13 165/17 167/2 187/3 231/19 232/14 233/20 233/21 234/4 234/5 234/12 235/9 235/11 236/8 236/23 236/24 239/2
 showed [7] 32/19 77/14 88/17 127/16 142/15 142/17 199/24
 showing [3] 105/1 120/1 239/4
 shown [3] 4/7 5/5 152/11
 shows [11] 11/20 33/11 71/5 74/18 75/6 125/5 127/21 151/3 151/6 233/16 238/24
 shutting [1] 227/3
 sic [4] 19/2 90/5 109/24 160/4
 side [28] 6/11 13/24 20/5 24/3 66/11 66/24 84/6 132/18 145/21 149/1 151/9 162/24 162/25 166/4 166/10 166/17 166/25 169/6 169/6 192/23 194/6 194/7 195/6 195/8 214/24 215/13 219/24 220/1
 sidebar [3] 26/6 39/5 142/25
 sided [1] 151/2
 sides [2] 173/4 177/25
 sign [2] 76/23 137/11
 signature [1] 212/24
 significant [2] 194/3 213/17
 significantly [3] 102/20 151/7 206/22
 signs [10] 9/13 39/10 39/19 60/5 63/11 80/15 120/18

Case 4:07-cv-02719 Document 399 Filed 06/27/11 in TXSD Page 274 of 282		
<p>specifically... [14] 66/7 90/18 106/7 106/14 107/23 108/19 122/6 131/10 198/12 198/22 198/25 213/16 230/1 230/18</p> <p>specified [2] 48/18 49/24</p> <p>specimen [5] 68/5 69/4 71/14 72/11 74/6</p> <p>spectrum [1] 49/21</p> <p>speech [3] 46/13 46/16 148/1</p> <p>speeches [2] 46/20 46/24</p> <p>speed [3] 189/10 221/17 221/20</p> <p>spend [2] 91/9 239/10</p> <p>spent [1] 227/5</p> <p>St [1] 20/14</p> <p>staff [3] 11/10 91/8 211/13</p> <p>stand [6] 6/11 44/13 61/14 61/18 88/14 152/16</p> <p>standing [1] 188/9</p> <p>standpoint [4] 32/25 53/21 132/17 138/1</p> <p>stands [2] 69/6 106/1</p> <p>start [9] 15/12 21/12 38/21 48/8 48/10 54/18 95/9 155/10 174/24</p> <p>started [5] 48/9 82/10 155/10 192/5 220/8</p> <p>starting [6] 52/11 99/14 181/2 181/10 183/18 192/23</p> <p>starts [4] 12/11 37/9 166/22 183/25</p> <p>state [26] 26/2 36/13 38/14 68/7 69/14 82/4 93/13 115/2 115/14 147/16 207/4 212/10 214/10 229/18 230/1 230/2 230/13 231/8 231/10 231/14 232/7 236/22 237/5 238/11 238/21 239/4</p> <p>stated [7] 78/18 107/24 147/14 147/23 148/15 203/18 232/15</p> <p>statement [46] 7/22 34/10 56/25 74/23 101/20 101/23 141/13 147/15 147/18 147/19 148/11 176/11 230/1 230/20 231/2 231/2 231/4 231/6 231/8 231/9 232/8 232/13 233/15 233/16 233/24 234/2 234/4 234/8 234/22 234/24 235/14 236/9 236/14 236/15 237/2 237/5 237/8 237/12 237/21 237/23 237/24 237/25 238/1 238/6 238/7 238/11</p> <p>statements [12] 7/11 9/21 115/13 116/8 116/19 230/12 230/15 230/17 234/9 234/23 235/6 236/8</p> <p>states [12] 1/1 1/11 19/10 20/4 20/8 20/13 120/10 202/14 202/25 203/10 203/11 213/18</p> <p>stating [1] 133/22</p> <p>stay [11] 34/22 35/2 35/20 38/20 39/8 71/24 95/7 95/8 213/10 213/18 227/8</p> <p>staying [1] 34/25</p> <p>stays [4] 73/25 87/13 87/16 168/10</p> <p>steered [1] 118/8</p>	<p>stencography [1] 1/24</p> <p>step [6] 123/1 144/9 144/10 149/4 150/9 226/16</p> <p>Stephanie [4] 1/21 1/21 2/4 237/10</p> <p>stick [1] 14/16</p> <p>still [19] 17/23 38/7 52/15 53/16 74/4 74/10 74/11 90/1 94/23 95/22 111/21 140/19 167/12 168/16 169/4 188/18 195/16 211/8 229/4</p> <p>stimulant [1] 36/20</p> <p>stimulate [1] 20/19</p> <p>stimulation [1] 21/25</p> <p>stitch [2] 174/8 190/24</p> <p>stitched [1] 181/6</p> <p>stitches [2] 174/4 217/23</p> <p>stitching [1] 180/11</p> <p>stop [5] 52/22 194/23 195/15 203/3 206/25</p> <p>stopped [1] 52/14</p> <p>stores [1] 20/17</p> <p>stories [1] 206/12</p> <p>story [8] 105/18 130/2 130/19 132/10 206/2 206/6 207/23 212/14</p> <p>Straightforward [2] 68/3 69/1</p> <p>strange [16] 62/22 77/12 77/21 77/24 78/1 78/3 78/5 78/6 78/7 78/19 78/20 79/2 102/13 137/5 137/10 137/10</p> <p>strategy [2] 5/23 5/24</p> <p>Stratus [3] 168/7 169/13 224/3</p> <p>streamline [1] 229/7</p> <p>Street [3] 1/22 2/5 2/14</p> <p>strength [1] 89/11</p> <p>strengthens [1] 89/17</p> <p>strenuous [2] 210/5 210/14</p> <p>stretch [2] 118/5 199/6</p> <p>stretched [1] 164/6</p> <p>strictly [2] 6/8 7/20</p> <p>string [2] 82/22 82/25</p> <p>strings [1] 82/6</p> <p>strong [4] 41/24 85/21 89/5 90/1</p> <p>stronger [1] 88/24</p> <p>structurally [1] 145/19</p> <p>structure [1] 146/22</p> <p>structured [1] 20/12</p> <p>struggle [2] 223/7 223/13</p> <p>struggled [1] 149/12</p> <p>Student [2] 18/12 18/13</p> <p>students [3] 18/14 54/7 54/16</p> <p>studies [5] 17/7 58/6 88/13 88/14 108/24</p> <p>study [4] 16/20 57/3 57/5 146/17</p> <p>stuff [2] 238/8 238/12</p> <p>subdiscipline [1] 18/8</p> <p>subject [13] 43/19 48/19 62/18 63/15 73/5 77/2 77/2 94/12 108/13 112/14 113/4 132/6 234/14</p> <p>subjected [1] 191/17</p> <p>subjective [45] 59/18 60/4 60/8 60/12 60/21 61/10 61/21 62/8 62/9 62/12 62/15 62/25 63/6 63/7 63/12 63/25 64/7 64/13 65/3 75/2 75/5 75/8 75/17 78/8 78/9 84/16 84/21 100/18 102/24 103/11 103/18</p>	<p>63/5 112/11 113/10 113/22 130/2 130/19 133/21 137/21 137/24 138/5 138/7 138/8 141/19 225/9</p> <p>subsectoral [1] 193/4</p> <p>subpoenaed [1] 200/11</p> <p>subsection [1] 234/17</p> <p>subside [1] 210/3</p> <p>substances [2] 36/11 72/25</p> <p>substantial [1] 87/9</p> <p>substantially [2] 105/10 106/4</p> <p>subtle [1] 177/22</p> <p>success [1] 219/3</p> <p>successful [3] 158/2 158/3 158/4</p> <p>successfully [1] 237/18</p> <p>such [16] 5/12 8/1 11/1 29/16 57/24 58/10 72/25 77/13 81/5 89/22 168/7 177/1 180/19 218/2 227/2 238/25</p> <p>suction [2] 174/12 174/13</p> <p>sudden [2] 42/18 42/20</p> <p>suddenly [10] 37/22 62/22 64/11 77/12 78/22 78/23 81/3 102/13 137/5 137/11</p> <p>suffered [5] 7/23 12/22 189/12 201/14 213/20</p> <p>suffering [1] 12/8</p> <p>sufficient [1] 72/19</p> <p>suggested [1] 119/11</p> <p>suggestion [1] 237/9</p> <p>Suite [3] 1/16 1/19 2/10</p> <p>summarize [1] 143/7</p> <p>summarized [3] 107/19 108/6 110/20</p> <p>summary [4] 27/12 27/16 121/1 143/6</p> <p>summer [1] 227/4</p> <p>supervision [1] 192/9</p> <p>supply [1] 32/23</p> <p>support [4] 57/21 66/5 152/9 186/12</p> <p>supported [3] 102/4 108/7 113/16</p> <p>supportive [1] 92/6</p> <p>supports [1] 107/14</p> <p>supposedly [1] 32/16</p> <p>sure [23] 10/2 41/19 52/23 56/23 68/21 78/16 87/2 88/1 93/6 104/8 149/20 151/19 153/21 174/25 182/5 191/2 196/23 201/11 206/11 206/11 219/23 223/21 224/10</p> <p>surgeon [10] 14/20 151/8 151/22 155/8 155/21 185/11 192/8 208/4 217/2 217/18</p> <p>surgeon's [4] 185/25 207/12 207/14 207/17</p> <p>surgeons [1] 223/7</p> <p>surgeons' [1] 208/11</p> <p>surgeries [8] 156/7 170/4 171/8 171/11 179/2 179/8 179/11 182/21</p> <p>surgery [43] 151/19 155/14 155/15 155/17 156/5 158/8 158/12 158/16 163/5 163/15 164/20 168/14 169/16 169/23 172/1 172/2 172/5 177/12 179/13 180/8 181/23 183/4 183/8 188/13 188/22 189/23 191/22 191/25 192/4 194/12</p>

S Case 4:07-cv-02719 Document 309 Filed 06/27/11 in YKSD Page 275 of 282		
<p>surgery... [13] 199/11 202/24 207/4 207/11 210/3 210/6 211/1 215/1 217/13 217/14 218/14 219/1 220/7</p> <p>surgical [5] 169/12 208/9 216/22 223/12 223/20</p> <p>surgically [1] 181/5</p> <p>surprise [2] 92/25 197/12</p> <p>surprised [1] 233/6</p> <p>surprising [1] 208/16</p> <p>Susan [2] 2/3 123/18</p> <p>susceptibility [1] 48/20</p> <p>suspect [1] 6/7</p> <p>suture [4] 174/14 181/13 190/8 191/13</p> <p>sutured [3] 168/9 190/9 224/4</p> <p>sutures [11] 168/5 174/15 181/14 181/25 182/3 182/14 190/23 190/25 191/8 191/16 223/10</p> <p>swabs [1] 140/4</p> <p>swear [2] 15/19 154/16</p> <p>swelling [9] 180/5 180/6 201/22 202/10 203/25 204/16 204/17 210/16 210/19</p> <p>sworn [3] 16/4 68/6 155/1</p> <p>syllable [2] 95/8 95/8</p> <p>symmetry [1] 197/4</p> <p>sympathy [1] 206/7</p> <p>symptom [2] 25/23 75/2</p> <p>symptoms [10] 12/12 25/17 25/24 39/6 39/10 39/19 60/6 64/17 75/17 81/11</p> <p>syncope [3] 93/9 93/11 93/17</p> <p>synonymous [1] 95/18</p> <p>system [16] 35/24 37/10 48/12 65/17 72/12 73/12 74/5 74/18 74/23 75/11 105/2 112/17 134/25 135/10 135/17 136/6</p>	<p>takes [3] 52/12 102/17 197/15</p> <p>taking [15] 22/4 25/21 36/14 51/21 51/25 52/14 72/14 79/1 111/1 130/13 135/22 136/19 179/14 219/3 231/13</p> <p>talk [23] 4/5 4/24 4/25 7/11 12/9 12/16 13/11 24/20 24/21 46/16 46/17 47/9 49/16 59/18 77/18 113/21 133/16 137/19 172/18 198/12 221/17 222/24 229/14</p> <p>talked [17] 4/22 12/20 65/15 66/16 74/20 75/13 83/23 85/22 94/14 100/18 111/7 118/7 131/23 136/8 136/19 145/14 226/23</p> <p>talking [33] 26/14 41/12 41/19 45/5 47/17 49/21 49/23 50/10 52/24 52/25 52/25 73/16 73/17 92/23 101/11 101/13 101/24 104/21 111/18 117/17 117/21 123/25 124/6 124/7 138/5 138/14 160/20 169/25 173/7 176/6 196/22 214/22 227/2</p> <p>talks [1] 66/7</p> <p>tangible [2] 75/9 75/14</p> <p>tank [3] 135/11 135/12 135/13</p> <p>teach [8] 16/14 16/15 16/15 16/16 16/16 16/17 17/13 18/20</p> <p>teaches [1] 14/10</p> <p>teaching [3] 13/3 13/4 18/19</p> <p>tear [6] 151/4 173/8 174/5 174/15 193/2 201/19</p> <p>tearing [6] 164/15 165/18 167/3 167/5 191/8 191/8</p> <p>tears [2] 152/3 152/7</p> <p>Technical [1] 67/18</p> <p>technically [1] 84/18</p> <p>technique [4] 163/5 163/8 187/8 208/9</p> <p>technology [2] 46/22 224/2</p> <p>telephone [1] 212/4</p> <p>tell [51] 16/19 21/9 21/22 24/23 25/15 29/15 37/8 37/10 38/13 41/20 46/4 54/7 68/6 72/15 83/7 95/10 105/6 105/7 112/20 129/12 131/8 132/1 132/10 141/12 141/22 146/5 155/9 158/4 158/25 167/24 178/23 186/6 187/6 190/2 192/3 196/1 198/21 198/23 198/25 199/11 200/9 203/4 203/14 204/9 205/11 205/16 215/14 220/3 220/8 228/22 229/6</p> <p>telling [9] 33/17 49/5 54/3 57/24 66/2 87/7 94/17 214/18 229/9</p> <p>tells [4] 12/21 24/13 140/15 182/22</p> <p>ten [39] 7/3 10/7 12/20 22/24 26/24 45/9 59/5 59/8 59/12 59/13 60/25 75/18 84/15 84/22 90/18 107/23 107/24 108/20 112/4 113/14 113/18 114/9 119/4 119/5 121/6 121/9 122/11 122/19 122/20 122/20 132/24 133/1 133/6 133/13 150/4 163/6 164/5 182/25 221/15</p>	<p>tender [1] 135/7</p> <p>tendered [2] 119/11 119/13 225/21 226/2</p> <p>tenet [2] 47/25 58/12</p> <p>tenth [1] 64/22</p> <p>term [11] 47/12 52/24 78/1 78/20 78/25 81/8 134/3 134/4 191/20 199/12 224/6</p> <p>terminology [1] 47/17</p> <p>terms [6] 57/21 77/16 79/6 93/11 198/15 212/17</p> <p>terrible [1] 206/12</p> <p>test [44] 13/8 13/8 25/14 25/15 28/23 28/25 30/2 43/10 61/23 64/18 66/12 68/10 68/12 68/14 69/6 69/8 69/24 73/20 73/21 84/12 85/1 124/18 124/24 124/25 125/1 126/2 126/9 127/15 128/5 128/6 128/12 128/14 128/16 129/1 129/2 134/7 134/9 134/14 134/16 134/20 134/20 134/23 135/5 135/23</p> <p>tested [18] 30/1 30/2 30/4 30/5 30/6 31/3 34/9 34/11 68/16 85/8 85/9 108/14 110/3 127/24 128/4 128/4 131/13 134/24</p> <p>testified [14] 13/6 16/4 23/11 25/2 25/9 25/16 90/15 90/16 91/22 91/24 122/3 126/3 155/1 231/19</p> <p>testifies [2] 153/22 153/25</p> <p>testify [22] 4/16 6/17 7/2 7/7 8/7 9/14 9/15 9/16 10/20 12/18 13/7 13/9 13/15 13/16 23/14 27/2 97/3 97/4 97/13 122/5 144/4 234/2</p> <p>testifying [5] 23/16 113/1 233/25 235/23 236/2</p> <p>testimony [62] 5/8 14/9 15/19 26/7 44/24 69/17 78/4 109/21 111/11 111/12 115/13 117/23 118/4 121/13 121/14 122/9 128/15 130/11 130/14 130/14 130/18 134/2 138/23 138/24 139/2 143/8 144/2 150/12 150/17 151/6 152/8 152/14 154/16 177/9 177/22 177/23 216/11 221/8 227/22 228/2 229/24 229/25 231/1 232/10 233/13 233/18 234/13 234/17 235/22 235/24 236/4 236/13 236/24 237/4 237/12 237/19 237/25 238/13 238/21 238/22 238/23 239/2</p> <p>testing [9] 33/15 67/7 74/17 74/19 83/6 83/7 104/10 135/2 135/3</p> <p>tests [9] 25/7 25/16 40/24 40/25 75/12 125/4 129/23 134/12 135/16</p> <p>TEXAS [11] 1/1 1/4 1/17 1/20 2/6 2/11 2/14 155/14 155/22 162/10 190/13</p> <p>textbooks [2] 108/10 114/14</p> <p>texting [1] 132/7</p> <p>than [54] 9/25 13/9 19/10 40/6 40/13 42/14 42/18 42/21 43/13 44/9 45/14 69/20 72/23 85/13 86/1 86/7 86/24 87/13</p>
T		
<p>table [1] 92/21</p> <p>Tackett [21] 5/24 6/16 6/23 7/21 8/7 10/22 12/6 15/14 15/15 15/16 16/4 16/6 16/10 16/11 27/7 110/1 116/14 119/12 121/12 122/11 123/16</p> <p>Tackett's [7] 7/22 8/1 10/16 109/17 110/2 121/5 121/6</p> <p>take [57] 14/19 15/1 15/4 15/17 21/9 21/23 34/20 36/18 60/18 70/1 70/1 70/18 70/20 100/24 101/19 102/3 102/13 102/16 102/16 103/25 107/22 108/25 109/1 109/2 109/2 109/3 109/7 113/19 113/24 117/7 145/16 145/18 149/15 154/14 159/2 168/24 171/19 171/22 172/3 172/4 180/1 192/15 200/4 200/16 200/17 201/17 204/9 209/21 210/8 210/21 210/24 221/15 227/16 229/16 229/19 235/23 236/9</p> <p>taken [26] 4/14 13/18 15/9 55/2 58/4 72/7 72/9 72/11 97/10 107/18 109/17 120/19 120/21 123/10 127/23 127/24 129/11 150/22 159/7 162/15 171/12 171/14 200/25 201/3 227/17 230/14</p>		

Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 276 of 282			
than... [36] 88/25 90/8 96/20 101/23 104/6 106/14 131/6 133/10 151/7 152/4 160/12 162/19 162/24 163/23 167/4 169/17 173/7 176/11 176/24 186/12 195/4 195/8 196/6 197/24 197/25 198/20 199/1 205/13 208/7 210/25 216/16 216/17 216/18 223/17 224/24 226/23 Thank [27] 15/23 16/2 44/7 44/8 44/11 46/11 114/8 117/6 126/19 127/7 127/13 129/25 130/22 148/18 149/4 149/6 159/24 178/20 182/18 184/5 185/3 194/16 209/11 218/8 226/6 226/16 239/14 Thanks [1] 62/3 that [1452] that logic [1] 70/1 that the [1] 233/25 that's [178] 4/7 5/9 6/8 7/2 9/5 10/19 11/4 11/6 12/1 13/20 13/22 14/2 15/1 15/25 18/21 19/12 20/2 20/11 21/4 22/5 22/12 23/9 25/21 25/21 27/15 28/17 30/10 30/22 32/2 33/11 33/20 34/13 35/14 39/13 39/13 42/8 42/17 44/17 45/7 46/9 46/16 46/16 47/13 47/14 47/24 48/21 49/20 53/21 54/6 54/10 56/13 57/9 58/14 58/22 60/11 60/12 60/20 61/9 61/25 62/9 63/20 65/3 67/12 69/23 71/18 74/7 75/2 77/4 77/15 77/24 78/10 78/10 78/11 78/12 78/13 81/11 84/22 85/9 87/14 89/5 89/10 92/23 93/12 93/19 95/1 95/11 95/14 96/7 96/11 96/11 98/24 101/9 102/19 104/1 104/16 105/12 105/19 105/20 109/19 109/19 109/19 110/8 110/12 114/13 115/25 117/6 117/20 120/11 120/19 122/15 122/21 124/12 124/16 125/12 125/15 127/19 128/6 128/24 128/24 129/3 129/12 132/14 133/21 140/9 141/5 142/20 143/7 143/11 145/8 145/21 145/22 148/14 150/19 152/16 152/18 152/18 153/19 153/23 154/3 154/5 156/12 166/16 166/20 166/22 172/4 175/15 178/21 181/12 182/1 184/8 184/23 188/16 188/19 189/5 193/14 194/4 195/4 200/2 207/20 209/10 211/10 214/1 214/5 216/14 218/20 219/12 219/20 219/21 220/4 222/23 225/21 227/15 228/4 228/13 233/12 238/9 238/14 239/1 THC [1] 126/24 the -- I [1] 33/2 the phone [1] 213/24 their [36] 17/24 17/24 18/4 18/6 24/4 25/7 30/18 36/14 37/10 47/10 52/14 52/16 53/14 65/16 103/11 103/12 104/6 106/4 106/5 111/13	130/23 150/5 150/14 171/21 197/16 198/6 198/6 198/7 199/5 199/6 199/11 200/7 210/23 220/17 230/25 236/13 them [68] 7/3 7/4 7/4 13/15 21/3 21/4 22/7 22/8 24/9 24/10 24/10 36/20 38/18 39/7 42/12 43/4 43/16 46/22 53/12 56/18 70/17 82/9 82/10 82/12 84/13 85/20 86/24 99/24 107/11 111/3 123/25 130/8 131/11 140/25 160/5 170/9 171/13 171/21 171/23 172/3 172/4 173/22 176/11 178/3 182/21 182/24 187/21 187/22 194/5 194/5 197/11 197/11 197/17 197/18 197/18 199/11 200/16 209/1 210/13 212/25 220/18 220/18 221/6 221/7 221/7 229/9 229/11 230/5 themselves [5] 9/16 9/23 220/16 221/1 230/4 then [115] 8/13 13/23 16/23 16/25 17/1 19/22 21/3 21/4 24/11 32/18 33/1 33/7 33/20 35/5 35/12 38/19 40/14 41/25 42/21 42/22 47/2 47/9 49/10 50/9 51/16 51/19 54/4 54/4 57/15 62/22 64/25 66/1 66/21 68/7 68/8 68/14 69/7 69/7 69/24 70/1 70/13 70/19 70/20 72/10 75/18 77/12 79/8 79/9 84/23 87/17 89/1 92/18 95/23 97/9 99/14 99/15 99/20 100/15 101/1 102/5 102/13 102/17 103/16 103/19 105/6 105/7 105/9 111/14 121/23 125/23 126/10 127/11 127/24 128/20 129/16 130/3 134/19 135/8 135/13 137/1 137/4 140/21 141/12 142/3 150/6 155/12 155/13 155/15 159/4 172/17 173/14 174/14 175/3 175/5 175/10 175/18 175/24 178/7 187/10 190/15 190/24 193/2 193/5 193/11 197/6 202/3 203/16 227/9 227/25 228/5 230/4 231/24 234/3 236/22 238/6 theories [1] 145/16 therapeutic [1] 18/5 therapeutics [1] 108/8 there [174] 9/20 10/7 12/3 17/2 19/13 20/10 21/13 22/18 25/5 27/11 27/12 27/13 27/23 28/22 30/15 30/22 32/2 32/8 32/14 32/20 33/7 34/1 34/3 34/4 34/4 34/6 34/8 36/2 36/24 38/1 38/7 38/20 41/9 41/25 42/2 45/13 48/23 50/2 51/12 52/6 52/22 53/15 53/16 55/2 55/14 56/19 57/20 58/2 61/2 61/19 62/9 63/21 67/18 70/21 74/4 74/11 75/6 75/9 77/17 80/10 80/10 80/25 81/1 84/12 86/4 87/21 89/22 90/2 90/3 97/1 97/24 100/23 103/4 103/18 104/17 105/15 106/1 106/12 107/14 107/22 109/23 110/13 110/17 112/9 112/23 113/17 114/2 115/3 120/4 120/7 120/10 120/14 122/20	132/16 131/16 132/4 132/23 133/16 134/7 135/3 135/7 135/8 137/12 137/23 138/3 139/23 140/2 140/3 140/13 140/13 140/20 140/24 141/5 141/7 141/8 141/10 145/20 147/5 147/5 147/7 147/11 152/13 152/22 158/8 159/6 162/19 164/14 166/12 167/15 167/17 167/20 171/24 173/3 186/1 187/25 189/15 189/19 190/14 190/25 190/25 191/17 193/7 194/23 195/15 198/2 198/16 198/18 200/14 200/14 201/8 201/11 201/12 201/24 202/5 202/20 203/3 204/19 206/25 208/20 210/18 213/7 213/9 215/17 218/15 221/5 221/10 222/25 223/1 223/4 223/11 223/12 224/24 225/6 232/15 there's [84] 13/13 18/20 19/15 19/19 20/13 22/18 23/19 29/15 29/16 31/18 32/6 32/14 36/10 36/11 36/14 40/20 40/21 42/3 42/4 42/10 42/23 45/5 48/24 50/11 52/5 56/2 64/18 66/5 69/8 69/24 71/15 74/15 87/24 89/7 89/8 90/1 92/16 96/2 96/3 100/17 105/14 105/15 106/11 112/23 113/21 126/1 126/2 128/1 128/3 134/15 134/19 135/22 136/5 137/22 140/21 141/10 141/22 142/3 151/2 151/11 151/12 151/16 151/21 154/7 158/23 166/12 175/24 177/21 186/10 188/11 188/15 188/21 190/7 190/15 191/3 192/15 197/12 198/5 198/9 198/10 198/20 199/14 216/5 223/19 thereafter [3] 100/4 100/14 105/9 therefor [1] 146/16 therefore [8] 10/17 12/3 68/13 87/16 96/17 141/1 232/1 236/4 thereof [1] 7/10 these [125] 6/21 9/1 9/2 9/5 9/18 12/12 12/21 13/5 13/5 13/7 14/3 18/16 19/4 20/16 20/21 21/2 21/6 21/11 22/5 22/9 23/4 23/5 23/19 25/11 25/24 33/20 34/16 36/1 36/3 36/17 37/16 37/19 38/4 38/15 39/6 43/8 43/11 43/16 48/21 51/3 51/18 54/9 55/7 56/3 56/11 58/25 59/1 59/5 65/1 65/5 65/24 67/17 73/18 75/4 75/16 77/5 84/23 87/15 89/10 94/19 98/18 99/22 100/9 100/18 100/23 102/16 102/17 102/17 107/5 107/7 107/8 107/10 107/15 107/18 107/23 107/24 108/3 108/6 108/6 108/7 108/8 110/22 110/25 111/2 111/4 113/14 113/14 113/21 114/9 114/12 115/14 115/20 116/19 122/18 124/17 129/10 129/23 130/6 131/9 131/20 131/20 132/18 133/2 133/6 133/8 133/11 134/11	

these... [18] 134/12 138/6
 140/15 140/16 144/17 146/16
 146/17 157/6 162/15 169/12
 176/21 191/10 196/5 197/14
 205/24 206/8 229/2 231/11
 they [139] 9/6 9/25 13/7 18/4
 20/22 21/2 21/4 21/7 21/8
 21/12 22/13 22/22 23/7 24/1
 25/7 25/11 26/24 30/18 32/24
 33/7 35/15 35/16 36/3 36/14
 36/21 36/22 36/23 36/24 37/2
 37/4 37/8 37/11 37/20 38/6
 38/14 38/16 38/22 38/22 41/2
 43/16 43/19 47/3 47/14 47/19
 51/9 51/12 51/14 51/15 51/17
 54/10 58/24 65/16 85/16
 85/16 85/17 92/21 94/19
 94/22 95/23 97/16 122/19
 125/9 125/18 125/23 126/9
 126/10 128/2 128/4 130/4
 130/12 131/10 131/10 131/17
 132/7 133/12 134/18 134/22
 140/11 140/22 140/23 140/25
 141/1 152/4 157/11 157/12
 164/14 164/16 165/25 171/14
 171/17 177/18 181/15 182/3
 182/5 182/15 182/25 185/22
 185/24 185/24 186/19 189/18
 195/24 196/3 197/10 197/17
 197/18 199/5 199/6 199/12
 199/19 199/20 203/19 205/1
 210/12 213/8 220/16 220/17
 223/10 223/10 223/19 229/13
 229/25 231/5 234/8 234/21
 235/9 235/9 235/13 235/18
 236/18 236/18 236/19 236/23
 237/4 238/7 238/10 238/11
 238/20 238/24
 they're [38] 22/8 22/10 23/8
 26/25 37/3 38/14 51/15 51/16
 52/4 52/4 59/4 59/5 92/19
 92/20 94/23 107/19 111/16
 127/25 130/7 133/14 138/3
 141/2 147/4 159/13 162/10
 179/20 182/25 195/24 197/16
 220/15 226/5 234/20 234/22
 234/24 234/24 237/1 237/1
 238/24
 they've [7] 52/14 52/16 53/14
 54/9 106/3 166/17 179/12
 thick [2] 188/18 224/7
 thin [5] 181/13 181/20 184/2
 199/10 222/14
 thing [42] 4/23 10/1 10/19
 25/6 30/22 36/23 37/5 40/24
 41/22 46/9 46/19 54/7 54/15
 62/12 70/20 81/6 92/19
 106/13 112/18 121/8 128/9
 132/3 134/24 135/3 136/21
 137/15 137/25 140/12 143/3
 145/21 152/15 154/5 166/12
 190/15 197/19 219/10 223/6
 228/9 235/1 236/25 237/8
 238/5
 things [44] 4/4 9/2 9/6 19/8
 21/9 36/6 37/25 40/15 40/20
 41/3 45/12 49/23 50/15 51/8
 52/11 52/13 54/23 75/4 77/23
 84/16 89/6 92/15 92/16 94/23
 103/22 105/14 108/21 109/5

110/20 110/13 122/28 173/16
 133/8 136/9 138/6 144/17
 145/24 163/25 164/4 174/22
 191/10 199/8 227/2 238/13
 think [136] 4/11 7/12 8/20
 11/6 12/1 13/3 14/7 22/1
 22/24 26/18 26/20 26/20
 27/25 28/14 31/10 32/3 32/23
 33/8 34/15 34/18 39/21 39/23
 40/9 40/15 41/22 42/6 43/5
 43/11 45/23 49/12 57/1 57/11
 57/20 65/21 72/18 73/10 74/2
 74/24 75/6 77/7 79/11 79/11
 81/6 81/7 83/4 83/7 87/25
 88/16 90/1 93/23 96/21 99/23
 100/17 103/15 103/22 110/8
 111/3 111/6 111/25 113/2
 114/11 116/9 116/9 117/20
 118/8 118/19 121/9 121/20
 125/9 130/6 130/7 130/13
 130/15 131/23 132/4 133/25
 136/8 136/16 137/4 137/21
 138/4 138/22 139/8 139/9
 139/11 140/1 140/24 141/4
 141/15 142/20 144/9 144/10
 146/15 147/19 149/14 150/2
 151/6 156/1 156/7 159/6
 159/15 161/20 167/2 167/20
 168/16 177/16 178/22 179/25
 184/6 186/17 186/19 188/12
 192/15 197/15 199/19 209/22
 212/23 216/6 216/24 220/9
 220/23 220/24 221/4 221/12
 221/14 223/1 224/17 224/21
 224/22 226/8 226/9 226/23
 228/23 234/16 234/16 238/4
 thinking [1] 54/18
 thinned [3] 164/6 183/5 184/2
 thinner [3] 181/14 222/23
 224/6
 thinning [1] 183/14
 third [11] 5/11 62/5 76/16
 93/22 101/16 124/3 136/15
 151/22 159/7 159/25 172/8
 this [392]
 thoracic [3] 175/22 175/25
 176/6
 those [111] 4/22 6/25 7/1 7/3
 7/11 7/11 9/20 9/22 10/3
 10/7 10/8 12/12 17/17 17/25
 18/5 18/22 19/15 19/20 21/16
 21/24 25/18 26/25 27/1 27/17
 28/5 34/7 36/19 38/13 41/2
 43/3 46/20 46/24 46/25 49/13
 50/24 51/25 52/10 52/20
 53/25 54/1 55/8 56/7 58/4
 58/7 58/23 59/4 65/17 79/5
 79/6 81/23 82/8 82/19 82/20
 86/11 88/17 95/14 96/16 97/1
 97/6 105/17 105/19 110/13
 110/17 113/18 117/1 117/5
 119/4 119/5 120/5 120/9
 122/1 125/3 125/23 133/1
 134/24 135/1 136/8 136/9
 138/2 138/9 142/4 145/25
 146/12 149/1 157/9 157/23
 171/11 179/7 179/7 181/14
 186/4 189/6 190/12 190/25
 191/8 196/6 199/8 206/10
 206/12 211/23 215/21 218/1
 218/3 221/12 223/5 223/9
 225/25 226/3 226/4 230/5

though [10] 7/15 13/11 74/2
 82/16 85/12 85/25 186/7
 191/3 232/14 236/2
 thought [18] 4/13 4/13 4/15
 39/13 59/13 77/4 92/4 123/7
 129/12 140/2 144/5 144/7
 149/23 149/24 199/19 219/12
 219/13 228/14
 thousand [3] 27/25 46/17
 169/15
 three [32] 2/10 13/15 23/23
 27/25 32/3 34/19 35/20 36/11
 40/14 40/14 72/17 72/17 73/4
 82/17 84/22 93/8 99/8 106/4
 119/5 136/22 140/3 180/13
 180/17 181/15 197/17 210/4
 210/7 210/8 212/3 221/6
 232/15 232/16
 three-plus [1] 210/7
 through [37] 17/10 18/2 18/7
 20/14 24/12 26/19 36/24
 66/21 76/7 101/2 111/13
 117/14 119/5 130/2 133/14
 145/19 146/9 146/11 146/13
 147/4 152/10 173/11 174/21
 174/24 175/1 175/5 175/18
 175/18 176/1 176/21 176/24
 180/8 215/19 230/25 232/21
 235/14 239/9
 throughout [2] 229/20 239/2
 throw [2] 85/1 161/13
 throwing [1] 135/23
 tier [2] 29/22 134/23
 tight [5] 190/7 191/5 191/5
 191/6 196/20
 till [1] 150/20
 time [99] 8/8 24/19 27/17
 27/20 31/5 35/23 38/19 39/23
 42/4 45/2 45/4 45/10 46/23
 49/8 49/14 49/14 55/2 58/24
 63/5 70/10 71/19 71/20 72/6
 72/7 72/11 74/5 74/15 75/11
 79/22 81/22 81/22 82/1 82/23
 88/18 91/7 94/25 96/6 99/25
 104/6 106/15 107/3 111/20
 112/2 117/13 117/15 122/9
 131/4 132/22 135/21 148/7
 148/8 148/11 158/12 158/16
 158/21 159/8 161/25 162/22
 163/5 163/15 165/20 166/9
 168/15 173/25 174/1 177/5
 178/5 178/9 179/13 181/7
 181/22 183/20 184/15 185/1
 185/12 186/9 188/2 188/13
 188/22 189/1 191/14 191/21
 194/13 199/3 200/6 203/19
 203/24 206/8 207/10 213/18
 214/15 215/24 216/13 221/16
 226/9 226/23 231/6 236/16
 239/10
 times [19] 19/20 21/7 23/19
 25/23 35/9 41/25 42/3 42/8
 42/8 45/5 46/25 56/4 58/9
 74/14 94/22 119/6 135/20
 197/12 215/10
 tipsy [4] 98/20 99/4 117/4
 141/8
 tired [5] 51/17 52/4 107/1
 131/3 233/3
 tissue [6] 175/1 181/20
 188/21 189/2 222/14 224/7

Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 278 of 282		Tuesday, 31 227/11 228/14	
tissues [5]	181/14 189/6 199/5 222/22 224/6	train [2]	22/20 22/22
title [2]	73/5 122/11	training [16]	18/9 22/20 25/1 59/6 59/7 105/13 105/22
to -- I [1]	190/12	106/24 107/8 107/12 110/20	
to admit [1]	229/18	114/5 155/14 155/16 155/17 185/25	
today [17]	17/22 27/23 83/3 83/4 97/5 97/13 99/20 130/18	trains [1]	12/6
167/12 170/8 201/1 201/4		trajectory [1]	218/22
226/24 226/25 227/1 235/22 236/3		transcribed [1]	120/25
Todd [3]	1/14 59/10 59/12	transcript [7]	1/10 1/24 152/19 152/25 152/25 237/6 239/18
together [4]	36/12 109/5 173/11 190/25	transcription [1]	1/24
told [22]	22/19 26/12 64/2 64/10 64/14 80/18 80/19	transferred [1]	68/1
80/24 80/25 81/2 81/10 91/24		translate [2]	146/17 185/7
120/5 130/2 140/8 140/11		trauma [41]	159/2 159/3 159/13 163/6 166/24 169/25
141/3 141/6 207/21 208/24		170/1 170/2 170/5 170/7	
212/14 229/14		179/8 179/16 180/1 180/3	
too [25]	26/14 34/13 62/3 62/6 76/18 86/11 101/18	182/22 182/24 183/7 201/14	
102/7 102/7 136/15 137/2		201/15 201/19 203/1 206/24	
154/5 157/18 157/18 162/23		207/2 208/23 209/2 209/4	
163/1 166/23 179/1 195/17		209/6 211/18 211/20 212/12	
197/16 197/16 198/10 198/10		212/13 213/2 213/5 213/7	
223/24 237/15		213/17 213/21 213/25 218/15	
took [20]	30/18 75/23 100/3 100/3 100/14 102/25 133/13	219/6 219/20 223/11	
134/1 139/12 144/9 146/3		traumatic [2]	206/12 209/13
146/6 159/1 159/5 159/11		traumatized [5]	179/21 203/10 203/18 203/24 207/22
200/13 200/15 200/21 201/10 211/13		travel [2]	27/20 46/20
top [9]	114/23 115/7 122/3 124/8 166/19 178/21 190/16	travels [1]	149/7
200/10 225/8		treat [2]	155/23 155/25
topic [1]	129/9	treated [3]	163/15 203/2 203/5
torn [17]	151/16 151/25 164/7 164/10 166/18 166/20 167/1	treating [6]	151/17 152/9 153/5 153/7 177/24 178/2
172/24 173/1 173/2 173/5		treatise [3]	14/14 118/16 118/23
173/23 173/23 177/11 177/13 177/15 202/4		treatment [5]	20/11 167/15 167/19 167/24 168/1
total [1]	55/23	trial [14]	1/10 5/23 17/19 24/1 45/20 227/3 229/7
totality [2]	147/15 148/11	229/20 233/25 234/2 234/14	
totally [5]	67/1 79/15 111/10 227/13 229/11	235/22 235/24 236/3	
toto [1]	148/10	trials [1]	88/25
touching [1]	11/24	tried [3]	121/23 149/13 168/4
tough [1]	190/15	trier [1]	7/24
toward [2]	188/8 228/12	tries [1]	54/25
towards [1]	166/18	trouble [1]	154/22
tox [2]	104/21 104/23	true [16]	89/22 90/3 94/25 95/11 95/20 99/17 130/20
toxic [1]	17/24	141/5 163/13 204/2 213/25	
toxicol [1]	134/11	223/16 231/2 231/3 231/25 232/4	
toxicological [2]	39/7 134/7	truly [3]	37/2 49/20 69/24
toxicologist [10]	5/6 5/15 9/9 9/18 12/14 13/2 17/6	trustworthy [1]	113/5
25/1 108/12 110/23		truth [19]	15/21 15/21 15/21 68/7 129/12 154/18 154/18
toxicologist/pharmacologist [2]	9/18 17/6	154/18 231/17 231/22 232/1	
toxicologists [4]	6/21 47/19 108/14 114/11	232/13 232/19 233/7 233/9	
toxicology [34]	5/7 5/13 5/16 5/19 11/1 11/14 11/19 13/8	233/11 233/21 234/9 234/11	
16/24 17/3 17/10 17/20 17/21		truthful [1]	233/12
17/22 18/7 18/7 23/6 25/10		try [23]	15/23 15/24 21/23 24/11 35/14 35/15 48/14
27/15 28/7 28/11 33/24 43/10		55/14 93/3 93/3 100/1 112/1	
57/4 57/7 61/23 66/12 66/16		129/8 145/3 149/9 150/6	
108/9 113/19 118/17 134/9		150/7 154/20 154/21 168/5	
134/12 145/22		178/2 197/11 217/23	
track [2]	45/16 97/6	trying [11]	33/19 38/21 42/6 70/12 105/18 133/2 146/24 190/7 224/9 232/21 234/24

U Case 4:07-cv-02719 Document 309 Filed on 06/27/11 in TXSD Page 279 of 282			usually [21] 78/31 84/11 29/24 30/25 34/24 38/20 46/16 48/1 95/1 95/2 95/12 134/25 136/5 171/19 171/22 181/12 200/7 200/8 221/16 223/19 229/12					
under... [28] 103/8 105/5 106/2 107/17 108/1 108/17 117/2 117/3 117/15 118/4 133/4 175/7 187/4 187/7 187/10 187/10 187/15 187/19 187/22 187/25 188/10 188/18 225/4 230/16 234/13 234/16 236/2 236/3 undercuts [1] 92/12 underneath [2] 187/18 189/3 underscore [1] 57/16 understand [34] 4/4 6/13 8/15 26/8 34/10 38/11 42/1 44/14 48/17 55/17 56/24 65/5 73/1 74/9 75/22 76/14 83/11 86/13 89/13 89/13 93/9 96/14 108/11 109/14 111/18 114/16 139/13 158/8 159/4 164/19 187/9 214/7 233/19 234/12 understanding [3] 4/22 6/15 8/20 understands [4] 77/9 176/5 195/14 210/2 understood [6] 45/16 63/19 63/21 79/17 114/18 216/11 undetermined [1] 102/23 undo [1] 119/7 unfortunate [1] 193/2 unfortunately [1] 217/17 unhappy [2] 195/13 195/18 uninhibited [1] 98/14 unique [1] 22/5 UNITED [8] 1/1 1/11 19/10 20/3 20/8 20/13 202/13 213/18 University [11] 16/12 16/21 16/23 16/25 17/2 17/8 17/13 155/12 155/13 155/14 155/15 unless [2] 15/6 103/4 unlike [1] 6/9 unlikely [1] 35/1 unqualified [1] 6/6 Unsophisticated [1] 217/25 until [6] 56/17 75/24 130/3 152/11 200/7 218/22 untruthful [3] 224/25 233/13 233/20 unusual [3] 68/16 197/19 207/4 up [126] 4/7 4/14 12/10 14/19 15/4 15/17 21/4 29/24 31/10 35/1 35/5 35/11 37/15 40/25 45/6 47/8 49/11 52/16 56/4 57/9 58/7 63/9 64/24 66/2 66/19 68/8 72/1 75/24 77/17 79/19 80/10 80/12 81/1 85/15 87/12 87/15 88/17 91/1 92/20 94/22 95/4 95/7 95/8 95/22 103/23 104/11 106/3 106/5 106/18 106/21 107/3 107/22 110/13 123/21 123/23 126/3 126/8 126/10 126/12 128/16 128/17 128/18 129/20 129/21 130/7 131/4 132/11 132/13 133/16 135/1 137/21 150/6 150/24 151/1 152/12 154/13 157/8 163/25 166/3 166/22 168/4 168/9 171/18 172/7 172/8 174/8 174/14 185/4 185/10 187/10 187/13 187/16			188/20 192/12 192/28 194/5 194/5 194/11 194/21 197/4 199/12 199/16 199/21 201/13 201/17 202/24 202/25 208/2 211/7 215/17 219/9 219/10 221/4 221/11 221/17 221/21 223/10 224/5 225/4 228/13 228/18 229/17 229/20 233/16 235/5 235/13 upon [38] 4/25 5/8 5/25 9/16 9/21 10/23 11/24 13/2 13/3 20/25 21/1 32/21 35/7 50/3 50/11 59/5 59/6 63/2 67/4 67/10 102/23 103/11 107/9 108/3 114/13 116/4 116/7 157/22 158/24 159/11 162/3 170/3 172/22 208/17 208/24 222/6 222/11 223/3 upper [1] 188/19 upsetting [1] 208/13 upward [2] 188/2 218/21 urinated [2] 35/9 128/7 urinates [1] 74/7 urine [44] 28/23 28/25 30/12 30/14 30/18 32/7 32/16 32/22 32/23 33/3 33/15 35/2 35/3 35/7 35/10 35/16 68/5 69/3 69/22 71/6 71/14 71/24 72/6 72/7 72/10 72/14 72/14 73/17 73/19 73/20 73/20 73/22 73/25 74/6 104/21 104/23 124/18 124/21 126/1 128/6 129/1 134/20 134/23 135/1 us [44] 10/14 22/19 23/19 25/15 26/12 29/15 33/17 49/5 54/3 66/2 70/10 85/16 94/17 134/23 152/20 162/20 166/11 167/3 167/24 169/1 169/3 182/22 187/3 187/6 190/2 190/12 192/3 194/20 196/1 196/6 196/7 201/3 202/20 202/23 203/15 204/2 204/9 204/12 212/17 218/1 220/8 223/22 224/2 229/13 use [40] 5/12 11/1 11/14 13/14 14/20 19/22 20/6 20/7 20/10 43/16 47/11 49/6 52/25 53/4 59/1 59/4 76/4 78/20 94/24 132/25 136/2 146/22 150/25 152/17 153/13 153/24 154/1 154/8 161/14 168/4 168/8 174/7 185/17 185/18 186/13 187/9 200/2 207/18 224/2 225/18 used [44] 4/20 5/9 6/1 6/21 6/25 7/1 8/24 9/4 10/24 14/4 18/10 18/16 19/1 19/3 19/16 19/17 19/19 20/3 20/17 29/23 33/1 43/10 43/12 47/14 54/13 56/7 56/11 78/25 84/13 107/23 108/22 132/3 134/4 146/11 147/2 147/3 147/9 174/4 174/10 190/3 199/22 221/4 225/16 226/9 useful [2] 7/24 57/7 uses [5] 7/13 14/12 120/3 120/5 224/3 using [17] 7/15 36/7 36/19 47/15 51/9 74/3 74/10 106/25 121/25 145/17 151/8 153/17 172/21 189/24 191/13 192/22 237/21			V vagina [1] 12/3 vaginal [9] 9/13 9/14 12/2 63/11 80/14 120/18 137/20 138/8 140/4 valid [7] 88/21 107/25 107/25 108/16 109/8 109/16 112/16 validate [2] 57/23 71/12 validated [3] 108/15 110/3 111/4 validity [1] 100/12 Valium [3] 19/8 64/3 80/18 value [3] 32/13 70/19 70/20 values [1] 138/1 variability [2] 48/24 50/2 variables [5] 22/18 50/23 58/1 58/4 129/5 varies [5] 38/12 46/18 72/21 196/9 196/11 variety [3] 49/3 198/10 198/21 various [5] 99/2 110/11 113/25 139/24 174/8 vary [4] 38/2 45/8 106/25 107/1 vehicle [2] 209/5 209/15 venue [1] 21/8 verbatim [1] 134/18 verbiage [1] 123/3 verifiable [2] 74/21 75/9 verification [1] 63/15 verified [1] 63/22 version [5] 105/6 105/7 105/10 106/5 178/1 versions [2] 105/8 106/5 versus [5] 59/19 95/22 95/25 136/24 169/6 very [77] 7/10 8/21 10/6 19/14 19/23 20/10 20/12 20/12 21/7 21/8 22/2 22/22 35/14 37/12 40/16 41/7 47/13 62/22 62/23 63/5 65/9 77/12 78/2 78/22 78/24 78/25 79/2 79/22 85/20 100/24 103/21 119/2 138/19 144/17 145/21 147/10 149/1 149/4 149/20 158/3 158/4 158/13 169/5 169/13 177/25 181/13 182/3 182/17 184/24 186/10 186/19 188/22 189/22 190/6 191/5 191/10 195/14 195/23 195/24 195/24 197/1 197/14 197/18 199/10 199/11 199/19 205/11 207/4 208/5 217/13 218/8 220/15 220/18 224/7 226/16 236/17 239/14 vessel [1] 223/19 vic [1] 101/19 vicious [1] 201/14 Vicknair [1] 1/15 victim [51] 5/14 5/17 8/2 10/8 11/2 11/15 25/18 61/7 61/24 62/5 62/7 62/13 62/15 62/16 62/16 62/17 62/21 63/2 63/4 63/8 64/8 64/10 64/17		

V Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 280 of 282		
victim... [28] 64/19 65/8 65/13 66/1 66/13 76/8 76/15 76/17 76/19 76/20 79/21 81/2 81/11 81/24 81/25 101/16 101/19 101/25 102/5 102/8 112/6 120/4 120/13 133/17 137/5 137/13 141/15 231/23	warning [2] 237/1 237/1 wants [6] 12/17 13/18 14/20 119/7 150/25 198/13 War [1] 239/1 warning [4] 54/11 56/9 132/5 132/19 was [410] wasn't [17] 31/12 34/11 57/10 80/19 80/24 81/1 121/22 125/22 128/4 132/21 135/24 206/2 208/20 213/7 219/1 223/6 233/12 waste [1] 104/6 water [1] 135/16 way [43] 13/23 14/5 20/12 21/23 22/17 23/24 24/6 24/16 35/14 36/5 43/18 45/16 48/25 49/1 51/1 57/15 103/7 110/24 116/15 123/4 125/2 125/20 128/25 129/9 138/15 142/1 147/3 154/7 169/17 171/24 178/7 184/20 187/20 187/25 188/1 188/3 194/8 198/9 204/5 205/8 205/9 220/4 223/3 ways [1] 135/16 we [272] we'd [1] 192/15 we'll [13] 42/15 44/10 66/21 91/13 91/13 117/7 117/8 150/20 152/10 159/15 181/2 227/9 228/1 we're [55] 13/12 15/16 33/16 33/19 33/21 35/1 36/6 46/21 50/10 52/11 52/24 52/25 52/25 66/21 73/16 75/2 91/2 93/11 94/11 101/11 101/13 104/3 108/21 108/22 108/23 111/18 113/10 117/8 142/22 143/7 145/25 149/19 149/20 152/5 153/8 154/12 159/6 160/11 160/20 160/22 162/20 163/10 166/8 166/11 166/13 173/7 176/5 196/23 197/20 206/10 206/10 227/2 229/10 231/12 233/16 we've [22] 4/7 7/19 7/20 10/12 19/22 44/4 47/14 85/22 86/10 89/6 100/18 153/20 154/21 170/17 177/9 190/13 190/13 196/22 200/15 214/21 224/19 229/9 wear [1] 37/22 wearing [2] 51/16 209/19 wears [3] 47/21 51/11 51/13 wedding [1] 227/13 Wednesday [2] 228/15 228/18 week [9] 156/2 201/18 201/18 201/24 228/10 228/12 228/17 229/3 229/3 weekend [2] 239/9 239/10 weeks [8] 82/17 82/18 180/24 197/4 203/22 210/13 210/15 210/20 weigh [1] 60/16 weighed [1] 13/8 weight [8] 60/16 111/11 183/6 184/3 185/22 186/9 189/9 221/8 weights [1] 138/2 welcome [2] 4/3 218/9 well [140] 4/20 6/22 7/10	15/7 17/7 19/5 21/22 22/22 24/16 29/11 31/5 32/25 34/10 36/1 36/18 40/20 44/14 48/23 49/12 49/23 50/25 51/5 52/9 54/21 57/16 62/11 62/13 65/15 69/11 70/1 70/20 71/17 71/18 72/21 73/14 75/2 75/14 76/4 76/22 77/2 77/16 78/15 80/9 82/10 85/14 87/1 87/21 87/23 90/24 93/3 94/18 97/8 98/22 99/25 100/17 100/21 101/1 101/11 102/16 104/5 104/16 106/24 110/5 112/22 113/13 114/14 116/9 118/8 118/21 120/17 123/8 124/25 125/9 125/11 127/17 128/1 130/11 131/9 135/24 136/5 137/23 137/24 138/19 138/22 139/1 139/11 140/21 144/1 146/2 146/20 149/22 150/6 151/21 153/2 153/7 153/10 153/23 156/2 156/12 159/7 163/14 164/4 164/22 166/15 167/5 168/24 169/17 169/20 171/16 173/3 177/3 181/13 184/2 188/4 188/11 190/5 195/3 198/4 198/12 200/19 205/4 205/22 210/12 212/22 212/25 220/14 222/21 229/7 231/11 232/5 232/21 234/3 234/25 237/7 238/16 238/20 Wellness [1] 18/12 went [20] 16/23 16/25 17/2 17/10 67/21 67/24 68/4 69/3 69/21 90/19 101/6 117/13 119/5 135/4 139/14 155/12 155/13 159/5 175/18 218/22 were [113] 9/20 13/5 13/14 16/19 19/17 24/2 24/20 24/23 26/9 27/11 27/13 27/17 37/16 39/13 40/22 40/24 40/25 41/2 41/18 41/25 45/17 50/13 50/15 59/13 60/15 70/3 70/12 75/12 77/4 80/5 85/7 93/1 95/9 95/9 96/21 97/5 110/16 115/4 117/16 120/3 121/24 124/23 125/4 125/9 129/23 130/2 132/24 138/5 140/15 140/16 140/21 140/22 140/23 140/25 141/1 141/8 153/11 158/14 159/7 161/15 162/15 164/10 167/4 171/14 171/24 172/22 172/23 173/19 174/4 174/9 179/21 182/3 182/14 186/18 186/19 187/2 188/9 192/6 193/11 195/17 195/22 195/24 199/19 199/20 199/25 200/11 200/25 201/2 201/9 203/10 203/18 203/19 207/1 210/7 210/7 218/17 219/6 219/15 221/2 221/5 221/23 221/24 222/14 223/4 223/4 225/8 230/5 232/4 233/19 235/8 236/21 238/13 239/8 weren't [2] 24/20 171/14 West [1] 1/22 what [328] what -- I [1] 144/1 what's [30] 14/17 17/25 22/9 23/15 25/7 37/20 38/13 71/25 72/2 73/1 89/20 107/4 113/9
victim's [3] 62/18 112/15 121/10 victims [1] 38/16 video [6] 149/14 150/10 226/22 227/20 228/20 229/24 videos [2] 228/23 229/1 Videotaped [4] 150/12 150/17 227/22 228/2 Vietnam [1] 239/1 view [5] 61/17 116/12 117/20 162/21 166/17 violate [3] 14/24 45/3 174/11 violates [2] 4/8 144/10 violation [1] 144/7 violative [1] 235/2 virtual [2] 46/22 46/22 visible [3] 180/3 202/1 202/5 visit [10] 75/18 91/23 162/16 181/23 189/22 194/11 206/23 215/24 224/17 224/19 visited [1] 160/14 visualizing [3] 172/24 173/12 173/24 voce [2] 11/10 91/8 void [1] 35/16 voided [1] 72/13 volume [1] 194/7 voluntary [1] 60/5 Vorpahl [1] 2/3 vows [1] 227/14		
W		
waist [1] 60/17 wait [9] 14/21 15/6 57/14 116/5 116/5 152/23 152/23 210/21 233/22 waited [1] 200/7 waiting [1] 160/12 waiver [1] 230/16 wake [4] 21/4 37/14 85/15 132/13 wakes [1] 107/3 waking [7] 49/11 63/9 64/24 79/19 80/12 106/18 106/21 walk [3] 24/12 111/13 147/25 wall [7] 178/14 194/4 214/23 215/8 215/12 215/15 224/4 walls [2] 22/8 198/10 want [46] 7/2 19/25 39/7 39/13 55/14 56/8 62/1 62/2 91/3 91/11 91/22 99/25 106/16 106/21 113/1 118/14 123/1 126/8 127/17 133/16 136/2 137/6 137/19 155/10 159/14 163/25 170/2 172/25 189/15 189/22 194/11 198/12 202/12 209/21 220/16 220/17 222/24 223/21 226/8 232/23 234/9 234/21 235/18 237/4 238/7 238/10 wanted [11] 5/3 170/25 187/2 210/6 210/22 213/8 226/24 229/16 229/17 231/5 236/18		

W Case 4:07-cv-02719 Document 309 Filed 06/27/11 in TXSD Page 281 of 282		
what's... [17] 117/23 132/7 150/24 151/14 157/17 164/2 164/19 164/23 166/14 169/3 169/19 169/19 198/11 203/14 207/10 208/2 226/20 whatever [16] 12/2 12/17 31/21 49/9 52/5 62/2 73/5 77/8 81/15 96/24 102/3 107/2 120/11 146/2 203/25 238/24 whatnot [1] 48/21 whatsoever [1] 69/20 when [152] 8/23 12/21 18/2 18/7 19/5 20/11 20/21 21/6 21/22 22/10 23/9 23/17 24/7 24/16 25/14 30/11 30/12 31/16 31/17 32/11 32/24 33/8 33/18 34/14 36/1 36/6 36/18 38/13 39/23 40/3 40/3 42/2 43/6 43/7 45/5 45/17 45/19 45/20 46/5 46/12 46/15 49/16 51/15 52/8 55/10 58/2 67/3 68/9 70/9 71/13 75/16 79/1 82/10 82/14 88/25 89/7 94/13 94/18 94/21 94/23 95/20 97/6 100/19 100/20 104/2 104/11 105/14 105/23 107/3 108/21 108/22 109/7 110/9 110/9 110/9 110/10 112/19 113/13 116/2 117/8 122/16 125/12 128/17 134/12 135/2 137/8 137/11 137/22 141/11 145/18 146/5 155/17 156/22 156/24 158/4 160/14 160/17 160/19 161/16 161/24 163/22 166/19 166/21 167/8 169/24 170/2 172/3 173/12 173/15 174/11 176/21 183/5 183/24 184/17 187/22 190/19 190/24 192/4 192/9 193/10 194/5 197/12 197/18 198/5 199/2 199/21 200/4 200/11 200/13 200/15 200/16 200/21 201/2 201/8 201/10 202/12 203/15 203/23 205/1 205/1 210/7 214/8 215/2 217/22 218/17 218/17 218/24 221/3 222/21 229/24 233/16 233/23 when were [1] 45/17 whenever [1] 44/10 where [52] 8/7 16/19 23/1 31/7 33/15 34/21 36/10 36/11 36/24 37/20 38/6 38/7 43/19 45/6 48/10 50/14 54/9 57/4 62/17 78/5 78/18 78/21 78/23 89/9 90/2 92/19 94/3 103/6 106/12 106/17 109/7 110/9 110/19 113/14 115/1 132/7 135/14 155/9 162/7 166/25 176/6 177/21 187/3 187/13 190/3 191/1 200/15 200/18 200/18 212/20 215/25 216/1 whether [62] 4/11 5/13 5/17 6/24 8/23 9/2 10/5 10/18 11/2 11/15 11/20 25/18 26/9 30/17 51/5 59/2 59/14 60/25 61/5 61/7 63/21 65/24 81/25 83/15 86/14 88/10 90/10 91/25 95/25 103/7 103/10 107/16 108/1 108/17 109/23 111/16 112/17 115/24 120/2	120/20 129/11 134/15 134/16 139/10 139/14 140/11 142/1 142/7 143/18 143/21 144/15 149/13 201/8 205/16 207/17 221/11 225/9 231/22 which [113] 4/25 5/22 6/18 7/8 7/12 8/2 8/11 9/17 10/14 11/13 17/14 17/15 18/3 18/16 18/22 19/7 19/13 21/7 21/24 22/16 22/16 22/25 25/7 25/21 26/16 29/13 29/20 29/22 30/2 33/6 33/12 38/1 42/3 42/24 47/16 52/11 55/6 55/7 55/12 56/4 56/10 59/5 59/7 64/24 65/8 73/7 83/4 83/8 83/8 83/12 84/16 92/17 95/23 99/24 102/17 102/24 103/13 103/22 104/12 106/25 108/4 108/9 109/18 110/17 110/21 110/25 112/5 116/3 116/7 116/22 122/9 126/11 128/12 129/5 129/17 133/17 134/1 134/10 135/11 135/21 136/7 145/18 146/6 147/24 153/24 157/20 158/15 159/19 162/23 166/18 168/5 168/23 169/6 169/13 178/13 180/2 183/21 183/25 188/19 188/20 189/10 193/3 194/12 201/14 203/2 207/10 214/21 229/2 233/17 235/22 235/23 238/2 238/12 while [10] 50/1 57/20 91/2 91/9 122/24 149/25 160/11 219/15 227/2 231/6 white [2] 8/21 185/8 who [36] 7/10 36/16 52/2 53/1 55/5 56/17 58/7 60/22 67/1 70/24 71/13 79/15 90/8 97/14 97/25 99/2 99/8 105/16 116/20 117/2 141/22 151/23 164/18 168/12 179/23 190/12 196/6 197/6 197/21 211/13 214/7 214/15 218/1 227/5 229/4 229/8 who's [6] 51/21 53/24 90/16 113/16 151/1 151/22 whole [17] 15/21 43/15 43/15 68/6 98/7 129/12 154/18 166/12 178/16 197/19 219/10 231/9 233/11 234/22 234/24 235/1 238/11 whom [1] 5/5 whose [2] 164/12 208/13 why [39] 8/22 8/22 32/23 34/8 34/11 38/11 69/23 78/12 80/9 85/9 87/14 106/22 140/9 140/10 163/13 166/20 166/22 171/14 171/24 172/4 175/15 182/1 183/19 194/1 194/4 200/4 207/1 209/16 210/21 222/6 227/16 232/22 233/12 234/3 235/9 235/9 237/23 238/2 238/2 wider [1] 186/8 width [2] 198/7 199/7 wife [1] 132/10 will [50] 6/7 6/23 12/20 13/7 13/9 14/23 15/18 15/20 19/20 22/7 23/19 23/25 29/22 38/1 38/5 38/14 49/1 55/21 56/19 103/22 106/2 106/4 111/13	125/18 125/23 126/9 130/4 130/17 132/12 144/25 145/9 152/1 152/20 154/14 154/17 180/14 181/3 186/12 195/4 209/25 210/2 210/3 210/8 227/3 227/5 235/12 wind [1] 150/6 window [1] 135/24 wine [1] 227/9 wish [6] 15/13 118/25 150/14 165/12 170/12 226/18 wishes [1] 149/18 withdraw [1] 103/2 withdrawn [2] 99/21 103/17 within [18] 7/6 20/24 60/21 63/5 72/3 72/8 72/9 72/9 79/22 88/20 115/19 116/3 116/3 122/2 129/23 229/21 230/11 238/1 without [20] 9/13 13/23 43/10 54/5 56/19 56/20 58/23 103/8 120/19 137/24 138/8 158/6 158/17 159/22 165/22 165/23 182/23 192/9 210/4 226/12 witness [41] 4/16 5/16 5/20 6/11 15/13 38/25 43/21 58/15 60/9 60/22 60/23 99/8 111/9 111/9 111/13 111/16 116/10 118/1 118/11 120/1 120/15 122/3 122/4 122/6 122/9 138/23 144/22 149/3 149/10 153/8 170/11 180/21 182/7 183/15 184/11 186/20 218/7 218/10 233/24 234/4 238/9 witness' [5] 7/9 111/12 118/4 143/8 237/19 witnesses [22] 3/3 5/4 64/10 81/2 81/23 99/8 99/10 99/11 111/7 112/6 114/20 115/4 115/14 117/5 130/11 141/3 177/9 177/18 228/14 228/17 228/19 229/3 witnesses' [1] 69/17 woke [2] 12/10 75/24 woken [2] 66/2 106/3 woman [16] 53/1 117/1 180/3 180/4 185/14 186/11 186/13 188/9 189/16 195/8 198/3 198/17 201/14 216/25 220/21 220/23 woman's [3] 162/19 197/1 199/10 women [13] 113/15 185/21 186/8 194/3 195/4 196/10 196/11 197/21 220/14 220/14 220/15 220/20 220/25 won't [6] 144/25 152/10 154/1 217/12 227/12 236/11 wondered [1] 208/2 wondering [1] 64/5 Woodlands [2] 155/21 162/10 word [6] 120/22 126/4 161/13 186/13 200/2 225/16 words [11] 48/24 49/13 71/15 78/22 95/5 195/22 225/18 225/24 226/3 226/4 226/5 work [20] 14/5 23/6 38/17 44/15 46/7 73/10 74/3 106/15 111/2 199/3 200/1 207/12 207/18 208/11 208/13 213/9 213/14 222/25 223/2 232/21

